

Please note: These transcripts are not individually reviewed and approved for accuracy.

BEFORE THE
CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD

IN THE MATTER OF THE:)
)
REGULAR MONTHLY BUSINESS)
MEETING)
_____)

DATE AND TIME: WEDNESDAY, NOVEMBER 20, 1996
 9:30 A.M.

PLACE: BOARD ROOM
 8800 CAL CENTER DRIVE SACRAMENTO,
 CALIFORNIA

REPORTER: BETH C. DRAIN, RPR, CSR
 CERTIFICATE NO. 7152

BRS FILE NO.: 36011

APPEARANCES

MR. DANIEL G. PENNINGTON, CHAIRMAN MR. ROBERT C.
FRAZEE, VICE CHAIRMAN MR. WESLEY CHESBRO, MEMBER
MS. JANET GOTCH, MEMBER
MR. PAUL RELIS, MEMBER

STAFF PRESENT

MR. RALPH CHANDLER, CHIEF EXECUTIVE OFFICER
MS. KATHRYN TOBIAS, LEGAL COUNSEL
MS. MARLENE KELLY, BOARD SECRETARY

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ITEM 17: CONSIDERATION OF STAFF RECOMMENDATIONS ON THE ADEQUACY OF THE SOURCE REDUCTION AND RECYCLING ELEMENT AND HOUSEHOLD HAZARDOUS WASTE ELEMENT FOR THE CITY OF DAVIS, YOLO COUNTY

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ITEM 33: CONSIDERATION OF CONCURRENCE
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1 SACRAMENTO, CALIFORNIA

2 WEDNESDAY, NOVEMBER 20, 1996

3 9:30 A.M.

4

5 CHAIRMAN PENNINGTON: GOOD MORNING.

6 WELCOME TO THE NOVEMBER MEETING OF THE CALIFORNIA

7 INTEGRATED WASTE MANAGEMENT BOARD. SECRETARY

8 PLEASE CALL THE ROLL.

9 BOARD SECRETARY: BOARD MEMBER CHESBRO.

10 MEMBER CHESBRO: HERE.

11 BOARD SECRETARY: FRAZEE.

12 BOARD MEMBER FRAZEE: HERE.

13 BOARD SECRETARY: GOTCH.

14 BOARD MEMBER GOTCH: HERE.

15 BOARD SECRETARY: RELIS.

16 BOARD MEMBER RELIS: HERE.

17 BOARD SECRETARY: CHAIRMAN PENNINGTON.

18 CHAIRMAN PENNINGTON: HERE. GOT A QUORUM

19 PRESENT.

20 DO ANY BOARD MEMBERS HAVE ANY EX

21 PARTE COMMUNICATIONS TO REPORT? START WITH MR.

22 RELIS.

23 BOARD MEMBER RELIS: JUST I HAD A BRIEF

24 DISCUSSION WITH NAN DRAKE, REPRESENTING GOLD COAST

25 RECYCLING, CONCERNING THEIR ITEM THAT'S ON

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1 CONSENT.

2 BOARD MEMBER FRAZEE: MR. CHAIRMAN, I MET
3 THIS MORNING WITH JOLENE PANDZA FROM AMERICAN TIRE
4 DISPOSAL ON THE GENERAL SUBJECT OF TIRE DISPOSAL.

5 MEMBER PENNINGTON: I TOO MET WITH MS.
6 PANDZA ON TIRE DISPOSAL.

7 BOARD MEMBER GOTCH: AND I HAVE A WRITTEN
8 CORRESPONDENCE FROM HONORABLE CRUZ BUSTAMANTE
9 DATED NOVEMBER 12TH REGARDING HIS REELECTION TO
10 THE ASSEMBLY. A LETTER FROM CCMEC, THE CALIFORNIA
11 CEMENT MANUFACTURERS ENVIRONMENTAL COALITION,
12 LETTER DATED NOVEMBER 6TH FROM JOHN BENNETT
13 REGARDING THE DOMESTIC MARKETS FOR USED TIRES
14 REPORT. AND FINALLY, A LETTER FROM MICHAEL
15 HARRINGTON DATED NOVEMBER 13TH, ENVIRONMENTAL
16 MOLDING CONCEPTS, REGARDING PLAYGROUND MAT
17 INSTALLATION IN THE TIRE PROGRAM FUNDING
18 ALLOCATIONS.

19 CHAIRMAN PENNINGTON: MR. CHESBRO.

20 BOARD MEMBER CHESBRO: I HAVE FOUR
21 LETTERS THAT I'M GOING TO SUBMIT THE LIST TO THE
22 CLERK FOR THE RECORD: ONE FROM LARRY BURCH OF
23 POTRERO HILLS LANDFILL REGARDING THEIR PERMIT; M.
24 MARIN FROM THE NRDC REGARDING AB 1220 REGS; GARY
25 LISS OF CRRA, VARIETY OF TOPICS; MICHAEL

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1 HARRINGTON, EMC, REGARDING THE TIRE ITEM,
2 PLAYGROUND MATS PROPOSAL FOR THE TIRES.

3 I ALSO SPOKE WITH LUPE VILLA OF THE
4 CITY OF LOS ANGELES LAST WEEK REGARDING L.A.
5 CITY'S RECYCLING RATE, WHICH I MIGHT MENTION AT
6 THIS POINT THEY'RE SUBMITTING NUMBERS TO US AND
7 ARE ABOUT TO PUBLICIZE WHAT THEY BELIEVE IS A
8 40-PERCENT RATE FOR OUR STAFF TO ANALYZE. SO
9 PRELIMINARILY OUR STAFF HAS INDICATED THAT THE
10 NUMBERS LOOK FAIRLY GOOD. IT'S OBVIOUSLY NOT AT
11 THIS POINT BEEN ANALYZED CAREFULLY BY THE BOARD
12 STAFF, BUT THAT'S EXTREMELY POSITIVE INFORMATION.

13 ALSO, YESTERDAY I SPOKE WITH JACK
14 MICHAEL OF THE L.A. COUNTY SANITATION DISTRICTS
15 REGARDING THE -- EXCUSE ME -- COUNTY OF LOS
16 ANGELES REGARDING THE TIRE ITEM THAT'S BEFORE US
17 TODAY. I ALSO HAD TWO GENERAL DISCUSSIONS, WHICH
18 I'M GOING TO HAVE TO GET THE MEETING LIST FROM TO
19 EX PARTE-IZE IF THAT IS A VERB.

20 YESTERDAY I ATTENDED CSAC COUNTY
21 SUPERVISORS ASSOCIATION, ENERGY AND NATURAL
22 RESOURCES COMMITTEE, AND HAD A WIDE RANGING
23 DISCUSSION WITH THEM ABOUT A VARIETY OF TOPICS,
24 BUT THE ONE THAT'S ON THE AGENDA TODAY IS TIRE
25 ALLOCATIONS, AND A NUMBER OF THEM HAD INPUT AS FAR

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1 AS TIRE ALLOCATIONS.

2 I ALSO WENT TO AN OIL WORKSHOP IN --
3 USED OIL RECYCLING WORKSHOP IN ORANGE COUNTY
4 YESTERDAY AND, AGAIN, HAD DISCUSSIONS WITH A
5 NUMBER OF LOCAL OFFICIALS ABOUT OUR OIL RECYCLING
6 PROGRAM. SO I'LL BE SUBMITTING THOSE LISTS AS
7 PART OF A WRITTEN EX PARTE, BUT I WANTED TO
8 DISCLOSE THOSE CONVERSATIONS.

9 CHAIRMAN PENNINGTON: THANK YOU. AS A
10 REMINDER TO ANYONE IN THE AUDIENCE WHO WISHES TO
11 SPEAK, THERE ARE SPEAKER SLIPS IN THE BACK OF THE
12 ROOM ON THE TABLE. IF YOU FILL ONE OUT AND BRING
13 IT TO MS. KELLY, WE WILL BE HAPPY TO HEAR FROM
14 YOU.

15 LET'S SEE. I HAVE A FEW
16 ANNOUNCEMENTS ABOUT THE BOARD'S AGENDA. ITEM 30
17 HAS BEEN PULLED FROM TODAY'S AGENDA. THE BOARD
18 WILL HEAR ITEM 38 AFTER ACTION ON THE CONSENT
19 CALENDAR TO ACKNOWLEDGE INDIVIDUALS AND
20 ORGANIZATIONS FOR THEIR COMMITMENT TO WASTE
21 REDUCTION AND RECYCLING PROGRAMS.

22 NOW WE'LL GO INTO COMMITTEE REPORTS,
23 FIRST BEING LEGISLATION AND PUBLIC EDUCATION, MRS.
24 GOTCH, THE CHAIR.

25 BOARD MEMBER GOTCH: THANK YOU, MR.

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1 CHAIRMAN. THE LEGISLATION AND PUBLIC EDUCATION
2 COMMITTEE MET ON NOVEMBER 14TH TO HEAR A REPORT ON
3 THE WASTE PREVENTION EDUCATION PARTNERSHIP PROJECT
4 THE BOARD HAS WITH THE LEAGUE OF CALIFORNIA CITIES
5 AND CALIFORNIA STATE ASSOCIATION OF COUNTIES.
6 THIS PROJECT ENABLED THE BOARD TO PROVIDE
7 ONE-ON-ONE TECHNICAL ASSISTANCE TO LOCAL
8 JURISDICTIONS TO HELP PROMOTE WASTE PREVENTION
9 STRATEGIES. THIS EFFORT INCLUDED 292 CITIES AND
10 58 COUNTIES WHO PARTICIPATED IN THE WASTE
11 PREVENTION EDUCATION ACTIVITIES.

12 THE COMMITTEE HEARD A REPORT FROM
13 REPRESENTATIVES FROM THE LEAGUE AND CSAC. THE
14 PRESENTATION INCLUDED AN OVERVIEW OF REPORTS AND
15 ACCOMPLISHMENTS AND RESULTS ACHIEVED. BOTH
16 REPORTS PROVIDED INVALUABLE INFORMATION ON THE
17 VARIOUS REGIONAL WASTE PREVENTION PROJECTS
18 CONDUCTED BY LOCAL GOVERNMENTS AND
RECOMMENDATIONS

19 FOR FUTURE EFFORTS. THESE PROJECTS HELP TO
CREATE

20 AN INCREASED PUBLIC AWARENESS OF WASTE
REDUCTION

21 AND WASTE PREVENTION STRATEGIES. STAFF WAS
22 DIRECTED TO FURTHER EXPLORE THE REPORT'S

23 RECOMMENDATIONS AND REPORT BACK TO THE
COMMITTEE

24 AT A LATER DATE.

25 ONCE AGAIN, I'D LIKE TO COMMEND
OUR

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1 PUBLIC EDUCATION STAFF AND IN PARTICULAR BECKY
2 WILLIAMS FOR ALL THEIR HARD WORK IN MAKING THIS
3 PROJECT A HUGE SUCCESS. THAT CONCLUDES MY REPORT.

4 CHAIRMAN PENNINGTON: OKAY. THANK YOU,
5 MRS. GOTCH. NOW LOCAL ASSISTANCE AND PLANNING
6 COMMITTEE, WESLEY CHESBRO CHAIR.

7 BOARD BOARD MEMBER CHESBRO: YES, MR.
8 CHAIRMAN, THE LOCAL ASSISTANCE AND PLANNING
9 COMMITTEE RECEIVED UPDATES FROM THE TWO DIVISIONS
10 THAT ARE RESPONSIBLE FOR AREAS THAT THE COMMITTEE
11 OVERSEES. THE COMMITTEE CONSIDERED 27 PLANNING
12 DOCUMENTS, WHICH REPRESENTED APPROXIMATELY 18
13 JURISDICTIONS. ALL OF THE PLANS ARE ON THE
14 CONSENT CALENDAR TODAY, YOU'LL BE HAPPY TO NOTE.
15 COMMITTEE ALSO APPROVED A PETITION FOR SLUDGE
16 DIVERSION CREDIT FOR THE CITY OF WATSONVILLE, AND
17 THIS WAS ALSO PLACED ON THE CONSENT AGENDA.

18 IN OTHER NEWS, THE MATCH OF THE
19 CATALOG FOR THE SEPTEMBER-OCTOBER ISSUE OF THE
20 CALMAX CATALOG FEATURES A GENTLEMAN WHO USED THE
21 CATALOG TO OBTAIN MATERIALS TO BUILD HIS
HOUSE IN

22 ENSENADA, MEXICO. MR. LOU HERNANDEZ FOUND
MOST OF

23 THE MATERIALS NEEDED FOR THE HOUSE HE'S

BUILDING

24 FROM NUMEROUS CALMAX EXCHANGES. IT'S MY
25 UNDERSTANDING THAT HE NOW HAS OPENED A
BUSINESS

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1 THAT INVOLVES FINDING MATERIALS THROUGH THE
2 EXCHANGE AND PROVIDING THEM TO PEOPLE DOING
3 SIMILAR PROJECTS IN MEXICO AND THEN ACTIVELY
4 UTILIZING THE CALMEX ASPECT OF CALMAX.

5 MR. HERNANDEZ FIRST HEARD ABOUT
6 CALMAX SEVERAL YEARS AGO WHILE ATTENDING THE ECO
7 EXPO CONFERENCE. WITH THE HELP OF CALMAX HE ALSO
8 STARTED -- I MENTIONED THE BUSINESS. MR.
9 HERNANDEZ' EXCHANGE HAS FIT IN WELL WITH CALMAX'
10 NEW PROMOTION, WHICH IS CALMEX, AND THROUGH HIS
11 TRANSACTIONS HE'S SAVED OVER \$7,600 AND DIVERTED
12 14,000 POUNDS OF MATERIALS FROM THE LANDFILL. I
13 THINK THIS IS A GREAT EXAMPLE OF HOW CALMAX HAS
14 EVOLVED OVER THE YEARS AND IS BEING USED. THIS
15 CONCLUDES MY REPORT.

16 CHAIRMAN PENNINGTON: THANK YOU, MR.
17 CHESBRO. NEXT IS THE PERMITTING AND ENFORCEMENT
18 COMMITTEE, MR. FRAZEE, CHAIR.

19 BOARD MEMBER FRAZEE: YES, MR. CHAIRMAN.
20 PERMITTING AND ENFORCEMENT MET ON NOVEMBER 6TH.
21 FOLLOWING ITEMS WERE CONSIDERED BY THE COMMITTEE
22 AND ARE RECOMMENDED FOR TODAY'S CONSENT AGENDA.
23 FIRST OF ALL, A NEW PERMIT FOR THE KERN VALLEY
24 RECYCLING AND TRANSFER STATION IN KERN COUNTY AND
25 REVISED PERMITS FOR THE BIG BEAR LANDFILL IN SAN

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1 BERNARDINO COUNTY, GOLD COAST RECYCLING AND
2 TRANSFER STATION, VENTURA COUNTY, AND THE BILLY
3 WRIGHT LANDFILL IN MERCED COUNTY.

4 ON TODAY'S REGULAR AGENDA IS ITEM 36
5 REGARDING ADOPTION OF FINANCIAL ASSURANCES
6 ENFORCEMENT REGULATIONS AND ITEM 37 REGARDING
7 SITES FOR REMEDIATION UNDER THE WASTE TIRE
8 STABILIZATION AND ABATEMENT PROGRAM.

9 COMMITTEE ALSO CONSIDERED THE
10 AB 1220 REGULATION PACKAGE AND APPROVED STAFF'S
11 RECOMMENDATION TO NOTICE REVISIONS TO THE
12 REGULATIONS FOR AN ADDITIONAL 15-DAY COMMENT
13 PERIOD.

14 AND FINALLY, THE COMMITTEE HAD AN
15 EXTENSIVE DISCUSSION ON ISSUES RELATING TO
16 REGULATIONS REGARDING NONHAZARDOUS ASH OPERATIONS
17 AND FACILITIES. THE ISSUE WAS BROUGHT BACK TO THE
18 COMMITTEE UNDER THE CATEGORY OF THE BOARD'S
19 AUTHORITY TO REGULATE IN THIS PARTICULAR
20 COMMODITY. THE STAFF HAS BEEN INSTRUCTED TO
21 REPORT BACK TO THE COMMITTEE AT THE DECEMBER 11TH
22 MEETING. AND THAT CONCLUDES MY REPORT.

23 CHAIRMAN PENNINGTON: THANK YOU, MR.
24 FRAZEE. NEXT IS MARKET DEVELOPMENT COMMITTEE
25 CHAIRLED BY MR. RELIS.

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1 BOARD MEMBER RELIS: MR. CHAIR, WE HAD
2 SIX ITEMS, AND FOUR OF WHICH ARE ON TODAY'S
3 AGENDA. TWO ARE INFORMATION MATTERS, AND I WILL
4 BRIEFLY DESCRIBE WHAT THEY WERE. WE HEARD A
5 PRESENTATION BY J. P. ELLMAN, PRESIDENT OF THE LOS
6 ANGELES BOARD OF PUBLIC WORKS, AND KELLY INGALLS
7 OF THE PUBLIC WORKS STAFF, REGARDING RECYCLED
8 CONTENT IN THE POTENTIAL BUILDOUT OF PLAYA VISTA,
9 WHICH WOULD BE THE OLD HOWARD HUGHES SITE, THE
10 LARGEST -- COULD BE THE LARGEST DEVELOPMENT IN THE
11 STATE OF CALIFORNIA.

12 WE HAVE BEEN EXPLORING FOR SOME TIME
13 WITH MS. ELLMAN AND MR. INGALLS A WORKING
14 RELATIONSHIP BETWEEN THE BOARD AND THE CITY OF LOS
15 ANGELES CONCERNING CLARIFICATION OF RECYCLED
16 CONTENT USE OPPORTUNITIES IN THE BUILDOUT OF THIS
17 ENTIRE PROJECT. STAFF IS WORKING WITH THE CITY TO
18 DEVELOP A TECHNICAL MANUAL ON DEMOLITION AND
19 CONSTRUCTION PRACTICES THAT CAN BE USED BY LOCAL
20 OFFICIALS, CONTRACTORS, DEVELOPERS, AND SO ON
21 AROUND THE STATE. SO WHILE THE FOCUS FOR THE
22 MOMENT IS ON PLAYA VISTA, THE MANUAL IS BEING
23 DESIGNED FOR STATEWIDE APPLICABILITY.

24 THE SECOND INFORMATION ITEM
25 CONCERNED THE BOARD'S MARKET DEVELOPMENT

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1 IMPLEMENTATION STRATEGY. AS YOU KNOW, WE HAVE
2 ADOPTED A NEW MARKET DEVELOPMENT PLAN FOR 1996,
3 CARRYING US THROUGH THE COMPLETION OF OUR
4 50-PERCENT MARKET DEVELOPMENT EFFORT. STAFF
5 DESCRIBED ITS PROGRESS IN DEVELOPING A WORK PLAN
6 TO DESIGNATE STAFF ASSIGNMENTS IN SUPPORT OF THAT
7 1996 PLAN, INCLUDING NECESSARY CROSS-DIVISIONAL
8 COORDINATION, AND ARE DEVELOPING A TRACKING
9 METHODOLOGY WHICH IS VERY IMPORTANT FOR ASSESSING
10 OUR STATEWIDE PROGRESS TOWARDS THE 50-PERCENT
11 DIVERSION GOAL AND THE ATTENDANT MARKET
12 DEVELOPMENT.

13 ON ACTION ITEMS, WE TOOK UP THE
14 REDESIGNATION OF THE CONTRA COSTA RECYCLING MARKET
15 DEVELOPMENT ZONE TO INCLUDE THE CITY OF CONCORD.
16 THAT'S ON CONSENT TODAY. WE TOOK UP THE RECYCLING
17 MARKET DEVELOPMENT ZONE LOAN FOR PHILIP
18 LIONUDAKIS -- I DON'T THINK I GOT THAT RIGHT --
19 BUT THIS IS CONCERNING A WOOD AND GREEN WASTE
20 RECYCLING OPERATION. THAT IS ALSO ON CONSENT.

21 AND WE ALSO TOOK UP THE ADOPTION OF
22 PROPOSED CHANGES TO THE RECYCLING CONTENT TRASH
23 BAG REGULATIONS, ITEM 28 ON TODAY'S AGENDA. THE
24 COMMITTEE FORWARDED THIS TO THE BOARD WITHOUT
25 RECOMMENDATION TO ALLOW STAFF TIME TO ANALYZE

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1 COMMENTS RECEIVED DURING THE 45-DAY COMMENT
2 PERIOD, WHICH ENDED JUST BEFORE THE COMMITTEE
3 MEETING.

4 THE COMMITTEE ALSO ASKED STAFF TO
5 PROVIDE AN ESTIMATE OF WHEN THE VARIANCE HEARING
6 MIGHT BE HELD AND WHAT WOULD HAPPEN TO IRONCLAD,
7 THE PETITIONER, WITH RESPECT TO COMPLIANCE IF THE
8 HEARING IS NOT HELD AFTER JANUARY 1, 1997.

9 CONSIDERATION OF A CONFIDENTIALITY
10 DETERMINATION REGARDING PUBLIC RECORDS REQUESTS
11 FOR PLASTIC BAG ANNUAL CERTIFICATION IS ALSO ON
12 OUR AGENDA TODAY AS ITEM 29. THE COMMITTEE VOTED
13 THREE ZERO TO RECOMMEND THAT THE BOARD PROTECT
14 SPECIFIC INFORMATION CONTAINED IN THE ANNUAL
15 CERTIFICATIONS SUBMITTED TO THE BOARD, DETAILS OF
16 WHICH WE WILL HEAR LATER, AND TO DEFER A DECISION
17 ON THE CONFIDENTIALITY OF TEST RESULTS SUBMITTED
18 BY IRONCLAD UNTIL THE PLASTIC BAG REGULATIONS ARE
19 AMENDED TO SET OUT THE EVIDENCE AND CRITERIA FOR
A
20 VARIANCE DETERMINATION. THAT COMPLETES THE
MARKET
21 REPORT.

22 CHAIRMAN PENNINGTON: THANK YOU, MR.
23 RELIS. MR. RELIS ALSO CHAIRS THE POLICY,

24 RESEARCH, AND TECHNICAL ASSISTANCE COMMITTEE.
25 BOARD MEMBER RELIS: MR. CHAIR, WE HEARD

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1 FOUR ITEMS, TWO OF WHICH ARE ON TODAY'S AGENDA.
2 I'D LIKE TO HIGHLIGHT THREE OF THOSE. ONE IS THE
3 CONSIDERATION OF THE LEGISLATIVE OPTIONS TO
4 ADDRESS WASTE TIRE MANAGEMENT ISSUES. THE
5 COMMITTEE DIRECTED STAFF TO DEVELOP A LEGISLATIVE
6 PROPOSAL FOR DISCUSSION AND TO BRING IT TO THE
7 LEG. COMMITTEE WHEN APPROPRIATE. THIS IS
8 CONCERNING TIRE WASTE MANAGEMENT ISSUES IN THE
9 FORM OF LEGISLATION.

10 CONSIDERATION WAS GIVEN OF POLICY
11 OPTIONS CONCERNING THE REIMBURSEMENT OF PROPERTY
12 OWNERS FOR TIRE PILE CLEANUP COSTS. COMMITTEE
13 DIRECTED STAFF TO ASSESS IN MORE DETAIL WHETHER
14 THE BOARD HAS LEGISLATIVE AUTHORITY TO PROVIDE
15 REIMBURSEMENTS TO PROPERTY OWNERS FOR CLEANUP
16 COSTS; AND, IF SUCH AUTHORITY DOES EXIST, TO
17 RETURN TO THE POLICY COMMITTEE IN JANUARY WITH A
18 DRAFT POLICY FRAMEWORK. THAT'S IF A PARTY HAS A
19 TIRE PILE, THEY HAVE CLEANED IT UP, CAN THEY BE
20 SUBJECT TO REIMBURSEMENT.

21 AND FINALLY, THE TIRE PROGRAM
22 FUNDING ALLOCATIONS. THE COMMITTEE CONDUCTED
23 FURTHER WORK ON THE 1996/97 ALLOCATIONS, AND I'M
24 SURE WE'LL BE HEARING MUCH MORE ABOUT THIS AS THE
25 MEETING UNFOLDS. THANK YOU.

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1 CHAIRMAN PENNINGTON: I THINK YOU ARE
2 RIGHT.

3 BOARD MEMBER CHESBRO: CAN I COMMENT ON
4 ONE THING THAT PAUL MENTIONED? THIS PROBABLY
5 COMES UNDER THE CLASSIFICATION OF EX PARTES STILL,
6 BUT ONE OF THE THINGS I HEARD YESTERDAY AT THE
7 CSAC MEETING THAT WAS QUITE STRIKING, AND I DON'T
8 KNOW THAT IT'S SOMETHING THE BOARD CAN PROPOSE OR
9 IS PRACTICAL AT THIS POINT, BUT THERE WAS A HIGH
10 LEVEL OF FRUSTRATION EXPRESSED ABOUT THE LOW LEVEL
11 OF THE TIRE FEE AND ITS INADEQUACY FOR COVERING
12 ALL OF THE MANY THINGS THAT WE'RE TRYING TO DO.

13 AND I HEARD THAT FROM A NUMBER OF
14 SUPERVISORS, SO THERE'S -- WE MAY BE ACTUALLY
15 SEEING A PROPOSAL EMERGE FROM LOCAL GOVERNMENTS
16 FOR A HIGHER LEVEL NOW. THAT'S NOT AN EASY THING
17 POLITICALLY TO HAVE HAPPEN, BUT I THOUGHT IT WAS
18 SIGNIFICANT THAT THERE'S THAT OPINION OUT THERE.
19 AND IN RELATION -- THIS IS IN RELATION TO YOUR
20 COMMENT ABOUT THE LEGISLATIVE PROPOSALS, AND I
21 JUST WANTED TO GIVE THAT FEEDBACK TO THE BOARD
22 MEMBERS.

23 CHAIRMAN PENNINGTON: THANK YOU. OKAY.
24 NEXT IS THE ADMINISTRATION COMMITTEE REPORT, WHICH
25 I CHAIR. THE ADMINISTRATION COMMITTEE MET ON

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1 NOVEMBER 5 AND CONSIDERED TWO ITEMS, BOTH OF WHICH
2 ARE ON THE CONSENT CALENDAR.

3 FIRST, THE COMMITTEE AWARDED 400,000
4 TO THE CALIFORNIA COASTAL COMMISSION FOR USED OIL
5 EDUCATION ACTIVITIES. AND SECOND, THE COMMITTEE
6 APPROVED THE CONTRACT FOR LEGAL SERVICES TO
7 SUPPORT THE RECYCLING MARKET DEVELOPMENT ZONE LOAN
8 PROGRAM.

9 THAT CONCLUDES THE REPORTS OF THE
10 COMMITTEES. NOW WE'LL HAVE A REPORT FROM THE
11 EXECUTIVE DIRECTOR, MR. CHANDLER.

12 MR. CHANDLER: THANK YOU, MR. CHAIRMAN.
13 AND GOOD MORNING, MEMBERS. FOUR KIND OF
14 INFORMATIONAL ITEMS THIS MORNING I'D LIKE TO
15 BRIEFLY COVER WITH YOU. THE FIRST HAS TO DO WITH
16 JUST GIVING YOU AN UPDATE ON THE STATUS OF THE SAN
17 MARCOS LANDFILL FINANCIAL ASSURANCE ISSUE, AND
18 MORE SPECIFICALLY TO APPRISE YOU, IF YOU HAVE NOT
19 HEARD, THE SAN DIEGO COUNTY BOARD OF SUPERVISORS
20 HAS VOTED TO DISBAND OR DISSOLVE THE JPA KNOWN AS
21 SAN DIEGO SOLID WASTE AUTHORITY.

22 THIS WILL CLEARLY PUT RESPONSIBILI-
23 TIES FOR FINANCIAL ASSURANCES BACK AT THE COUNTY
24 LEVEL. AND THIS, COUPLED WITH THE RECENT COURT
25 DECISION TO UPHOLD THE CITY OF SAN MARCOS' REQUEST

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1 TO SEE THE LANDFILL CLOSE IN MARCH OF 1997, MEANS
2 THE COUNTY MUST COME UP WITH BUDGET REVENUE OR
3 OTHER MEANS TO ASSURE PROPER FINANCIAL ASSURANCES
4 FOR THE SAN MARCOS LANDFILL.

5 IT'S MY RECOLLECTION THAT WE HAVE A
6 LETTER TO THE COUNTY ASSERTING THIS FACT, AND THEY
7 ARE TO RESPOND BY, I BELIEVE, JANUARY 7TH OF 1997.
8 AS A RESULT, I ALSO PLAN TO MEET SOON WITH THE
9 NEWLY APPOINTED COUNTY ADMINISTRATIVE OFFICER, MR.
10 LARRY PRYOR, TO GO OVER THE COUNTY'S PLANS FOR
11 MEETING THEIR FINANCIAL ASSURANCE REQUIREMENTS.
12 AND I WILL BE KEEPING YOU ALL POSTED ON THE
13 DEVELOPMENTS ON THAT IMPORTANT FACILITY.

14 WORKSHOPS ON ALTERNATIVE DAILY
15 COVER, BOARD STAFF WILL HOLD TWO WORKSHOPS IN
16 DECEMBER TO TAKE COMMENTS ON REGULATIONS RELATING
17 TO ALTERNATIVE DAILY COVER STEMMING FROM THE
18 PASSAGE OF THIS YEAR'S AB 1647. THESE INFORMAL
19 WORKSHOPS WILL BE HELD MONDAY, DECEMBER 2D FROM 10
20 A.M. TO 3 P.M. IN SAN LEANDRO; AND ON THURSDAY,
21 DECEMBER 5TH, FROM 10 A.M. TO 3 P.M. IN WHITTIER.
22 THE PURPOSE OF THE WORKSHOPS IS TO SOLICIT INPUT
23 PRIOR TO REG DEVELOPMENT TO ESTABLISH CONDITIONS
24 FOR THE USE OF ADC THAT'S CONSISTENT WITH EXISTING
25 INTEGRATED WASTE MANAGEMENT LAW.

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1 BOARD MEMBER CHESBRO: WHY DOES THIS
2 SOUND SO FAMILIAR? SOMEHOW WE'VE HEARD THIS TOPIC
3 BEFORE, LIKE THREE OR FOUR TIMES, I THINK.

4 MR. CHANDLER: AS YOU KNOW, THE AB 1647
5 DIRECTS THE BOARD TO CONSIDER SPECIFIC CRITERIA
6 WHEN ADOPTING THESE REGULATIONS, BUT LEAVES OPEN
7 THE CONTENT OF THE REGS, WHICH THE WORKSHOPS WILL
8 ATTEMPT TO ADDRESS.

9 MY NEXT ITEM DEALS WITH THE ORGANIC
10 RECYCLING WORKSHOPS WE RECENTLY HELD. IT REALLY
11 IS THE KICKOFF WORKSHOPS FOR OUR LEA TRAINING FOR
12 THE YEAR. THE BOARD WILL HOLD TWO WORKSHOPS, ONE
13 ON ORGANICS MATERIAL RECYCLING ODOR CONTROL
14 BEGINNING TOMORROW IN SUNNYVALE AND FOLLOWING ON
15 DECEMBER 4TH IN SAN BERNARDINO.

16 CONSISTENT WITH MY DESIRE TO HAVE A
17 MORE INTEGRATED AND COLLABORATIVE APPROACH TO OUR
18 TRAINING DELIVERIES, THESE WORKSHOPS WILL INVOLVE
19 THE PARTICIPATION OF NOT ONLY LEA'S AND BOARD
20 STAFF, BUT ALSO INCLUDE OTHER RELATED CONSTITUENT
21 GROUPS SUCH AS COMPOST OPERATORS AND LOCAL AIR
22 QUALITY MANAGEMENT DISTRICT STAFF.

23 THIS IS JUST THE BEGINNING OF WHAT
I
24 PLAN OVER TIME TO BECOME A NEW, MORE

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1 OUR TECHNICAL TRAINING AT THE BOARD, AND I WILL
2 PROVIDE UPDATES TO YOU ON THIS IN THE COMING
3 MONTHS.

4 MY LAST ITEM CONCERNS THE PROPOSED
5 MESQUITE REGIONAL LANDFILL IN IMPERIAL COUNTY. I
6 THOUGHT YOU SHOULD BE AWARE THAT THE REQUEST FOR A
7 STAY ON THE LAND EXCHANGE HAS BEEN HEARD BY THE
8 INTERIOR BOARD OF LAND APPEALS AND HAS BEEN
9 DENIED, ALLOWING THE EXCHANGE TO GO FORWARD AND
10 LETTING STAND THE RECORD OF DECISION. THIS WAS
11 COMMUNICATED THROUGH OUR LEA FROM IMPERIAL COUNTY
12 TO BOARD STAFF.

13 AND SO WHILE IT HAS NOT BEEN
14 RECORDED, WE EXPECT IT WILL SOON. THAT WILL PUT
15 THE CUP TO REFLECT THIS EXCHANGE, AND THEY WILL
16 THEN BE IN A POSITION TO START MOVING FORWARD
17 THEIR PERMIT APPLICATION. AND I WOULD IMAGINE
18 WE'LL SEE AN APPLICATION SHORTLY AFTER THE FIRST
19 OF THE YEAR.

20 THAT CONCLUDES MY UPDATE FOR TODAY.
21 THANK YOU.

22 CHAIRMAN PENNINGTON: THANK YOU, MR.
23 CHANDLER. ANY QUESTIONS OF MR. CHANDLER? OKAY.

24 NEXT WE HAVE CONSIDERATION OF
25 CONSENT AGENDA ITEMS. CONSENT AGENDA INCLUDES

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1 ITEMS 4 THROUGH 22, 26, 27 AND 32 THROUGH 35. IS
2 THERE ANY MEMBER WHO WISHES TO PULL ANY ITEM FROM
3 THE CONSENT CALENDAR? IF NOT, I'LL ENTERTAIN A
4 MOTION.

5 BOARD MEMBER FRAZEE: I'LL MOVE ADOPTION
6 OF THE CONSENT CALENDAR.

7 BOARD MEMBER RELIS: SECOND.

8 CHAIRMAN PENNINGTON: IT'S BEEN MOVED AND
9 SECONDED. WILL THE SECRETARY CALL THE ROLL,
10 PLEASE.

11 BOARD SECRETARY: BOARD MEMBER CHESBRO.

12 BOARD MEMBER CHESBRO: AYE.

13 BOARD SECRETARY: FRAZEE.

14 BOARD MEMBER FRAZEE: AYE.

15 BOARD SECRETARY: GOTCH.

16 BOARD MEMBER GOTCH: AYE.

17 BOARD SECRETARY: RELIS.

18 BOARD MEMBER RELIS: AYE.

19 BOARD SECRETARY: CHAIRMAN PENNINGTON.

20 CHAIRMAN PENNINGTON: AYE.

21 NEXT WE HAVE OUR SPECIAL ITEMS HERE,
22 STARTING WITH BOARD MEMBER JANET GOTCH, CHAIR OF
23 THE LEGISLATION AND PUBLIC EDUCATION COMMITTEE.

24 BOARD MEMBER GOTCH: THANK YOU, MR.
25 CHAIR.

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1 ON SEPTEMBER 18TH OF THIS YEAR
2 GOVERNOR WILSON SIGNED SB 1535, KILLEA, INTO LAW.
3 THIS BILL WAS APPROVED UNANIMOUSLY BY ALL
4 COMMITTEES AND BOTH HOUSES OF THE STATE
5 LEGISLATURE. SB 1535 WAS A VERY CRITICAL PIECE OF
6 LEGISLATION FOR THE BOARD THIS PAST SESSION
7 BECAUSE IT AFFECTED OUR MARKET DEVELOPMENT
8 PROGRAM. AS MOST OF YOU KNOW, ONE OF THE KEYS TO
9 REACHING 50 PERCENT BY THE YEAR 2000 IS FOR
10 CALIFORNIA TO CREATE, DEVELOP, AND EXPAND MARKETS
11 FOR RECYCLABLES.

12 SB 1535 EXTENDS THE RECYCLING MARKET
13 DEVELOPMENT ZONE PROGRAMS LOAN SUNSET DATE FROM
14 1997 TO THE YEAR 2006 AND ENABLES THE BOARD TO
15 PARTICIPATE IN THE TREASURER'S CAPITAL ACCESS LOAN
16 PROGRAM. THESE PROVISIONS EFFECTIVELY INCREASE
17 THE BOARD'S ABILITY TO LEVERAGE THE RMDZ MONEY
18 AVAILABLE FOR LOANS WHILE CONCURRENTLY PROVIDING
19 MILLIONS MORE IN FUNDING FOR LOANS TO RECYCLING
20 BASED BUSINESSES IN CALIFORNIA OVER THE LIFE OF
21 THE RMDZ PROGRAM.

22 OVER THE PAST THREE YEARS, THE BOARD
23 HAS DESIGNATED 40 RMDZ'S IN THE STATE. THE
24 RECYCLING BUSINESSES IN THESE AREAS HAVE CREATED
25 HUNDREDS OF NEW JOBS, HELPING US TO DIVERT

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1 MILLIONS OF TONS OF SO-CALLED WASTE.

2 THE PASSAGE OF SB 1535 WAS DUE IN A
3 LARGE PART TO THE STRONG TRACK RECORD OF OUR STAFF
4 IN THE RMDZ PROGRAM AND OUR LEGISLATIVE OFFICE, AS
5 WELL AS THE HARD WORK OF THE ZONE ADMINISTRATORS
6 THROUGHOUT THE STATE. IN THE CAPITOL THE BILL'S
7 SUCCESS CAN BE ATTRIBUTED LARGELY TO THE ENERGY OF
8 TOM HIGGINS IN SENATOR KILLEA'S OFFICE. TOM HAS A
9 LONG HISTORY OF WORKING ON ISSUES RELATED TO SOLID
10 WASTE MANAGEMENT, AND HIS INVOLVEMENT WITH THIS
11 BILL WAS IMMEASURABLE.

12 ON BEHALF OF THE BOARD, I'D LIKE TO
13 THANK TOM AND BRING HIM FORWARD OVER TO THE
14 PODIUM, I GUESS WOULD BE A GOOD SPOT, AND HE'LL
15 MAKE SOME COMMENTS AND ADDITIONAL PRESENTATIONS.
16 TOM HIGGINS.

17 MR. HIGGINS: THANK YOU VERY MUCH FOR
18 HAVING ME, AND I APPRECIATE THOSE KIND COMMENTS.
19 THANK YOU VERY MUCH, AND I'M SORRY THAT SENATOR
20 KILLEA COULDN'T BE HERE. AS YOU KNOW, SHE'S
21 RETIRING, AND SHE WORKED VERY HARD ON INTEGRATED
22 WASTE MANAGEMENT ISSUES, INCLUDING THE 1989 ACT.
23 AND SHE WORKED ON MARKETS AND KNEW THAT MARKETS
24 WERE, JUST AS IN REAL ESTATE, GOT LOCATION,
25 LOCATION, LOCATION. EVERYBODY IN THIS ROOM KNOWS

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1 IN RECYCLING YOU HAVE MARKETS, MARKETS, AND
2 MARKETS.

3 SO THE BILL WAS VERY IMPORTANT, AND
4 I THINK THAT ANOTHER THING THAT IS SIGNIFICANT
5 ABOUT THE BILL IS NOT ONLY IN HELPING US MOVE
6 FORWARD IN OUR EFFORT TO BUILD AN INFRASTRUCTURE
7 FOR MARKETS SO THAT WE REALLY CAN MAKE INTEGRATED
8 WASTE MANAGEMENT HAPPEN, THE OTHER THING WAS THAT
9 WE MOVED A BILL FORWARD IN AN ATMOSPHERE LAST YEAR
10 WHICH WAS SORT OF TRICKY TO MOVE ANY BILL FORWARD
11 IN.

12 AND WE HAVE DIFFERENCES. I KNOW YOU
13 HAVE A FEW ON THE BOARD OCCASIONALLY, AND WE HAVE
14 THEM IN THE LEGISLATURE. AND IT WAS SORT OF
15 EXCITING TO PULL TOGETHER AND WORK ON SOMETHING
16 THAT WAS A CONSTRUCTIVE AND APPROPRIATE AND
17 SOMETHING THAT WE COULD ALL WORK TOGETHER ON.

18 THE BILL WOULDN'T HAVE BEEN POSSIBLE
19 WITHOUT THE HELP OF THE RMDZ ASSOCIATION, AND I
20 WANT TO TAKE JUST A MOMENT TO SAY SPECIAL THANKS
21 AND TO INVITE JIM KUHL AND CHRISTY BEEMAN OF THE
22 RMDZ ASSOCIATION TO COME UP. THEY HAVE WORKED TO
23 HELP MAKE THE ASSOCIATION TO MAKE THE RMDZ PROGRAM
24 EFFECTIVE AND TO GET THE LOANS ROLLING AND TO
25 BRING THE BUSINESSES IN AND TO MAKE RECYCLING

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1 HAPPEN.

2 IF YOU COULD HANG ON JUST A SECOND.
3 BROUGHT YOU A LITTLE TOKEN OF OUR APPRECIATION AT
4 THE LEGISLATURE FOR YOUR HARD WORK. JIM. THANK
5 YOU VERY MUCH. WE'RE DOING THE REAL THINGS NOW.
6 THANK YOU VERY MUCH.

7 (APPLAUSE.)

8 MR. HIGGINS: THANKS A LOT. YOU'RE
9 WELCOME TO GIVE A 45-MINUTE SPEECH IF YOU LIKE.

10 MS. BEEMAN: WELL, I AM GOING TO TAKE
11 THIS OPPORTUNITY TO SAY A FEW WORDS. I'M CHRISTY
12 BEEMAN. I'M THE ZONE COORDINATOR FOR THE
13 OAKLAND-BERKELEY RECYCLING MARKET DEVELOPMENT ZONE
14 AND THE CURRENT PRESIDENT OF THE CALIFORNIA
15 ASSOCIATION OF RMDZ'S. AND IT'S REALLY A GREAT
16 PLEASURE TO BE HERE ON BEHALF OF OUR ASSOCIATION
17 ON -- IN THE CONTEXT OF THE PASSAGE OF THIS BILL,
18 WHICH REALLY IS KEY TO THE CONTINUED SUCCESS OF
19 THE RMDZ PROGRAM. AND AS AN ASSOCIATION, WE ARE
20 VERY PLEASED TO SEE THAT THE LOANS ARE GOING TO
21 CONTINUE FOR THE NEXT TEN YEARS.

22 IN THE OAKLAND-BERKELEY ZONE ALONE,
23 WE CREDIT THE LOAN PROGRAM WITH GENERATING OVER \$2
24 MILLION OF INVESTMENT IN RECYCLING AND REUSE
25 PROJECTS IN OUR AREA AND INCREASING OUR -- OR

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1 ADDING A HUNDRED THOUSAND TONS PER YEAR OF MARKET
2 CAPACITY IN OAKLAND AND BERKELEY, AND THE
3 CONTINUATION OF THE LOAN PROGRAM IS GOING TO ALLOW
4 US TO CONTINUE THAT SUCCESS.

5 BUT AS WE'RE HERE CELEBRATING THE
6 NEW LONGEVITY OF THE LOAN PROGRAM, OF COURSE, WE
7 WOULDN'T PASS UP AN OPPORTUNITY TO REASSESS AND
8 CONSIDER HOW WE MIGHT BE ABLE TO ENHANCE THIS
9 PROGRAM FOR THE FUTURE. ON BEHALF OF THE
10 ASSOCIATION, WE HAVE A FEW RECOMMENDATIONS OR
11 IDEAS THAT WE'D LIKE TO SEE YOU CONSIDER. A
12 COUPLE RELATING TO MORE THE ADMINISTRATIVE SIDE,
13 HOW THE APPLICATION AND APPROVAL PROCESS WORKS.

14 I KNOW SOME OF THESE CHANGES ARE
15 ALREADY IN PROCESS, AND I'VE SEEN SOME DRAFT
16 REGULATIONS THAT WE'RE VERY PLEASED TO SEE, AND
17 WE'LL BE SUBMITTING SOME SPECIFIC COMMENTS ON THE
18 REGULATIONS. A FEW IDEAS ON THE POLICY SIDE TOO
19 THAT ARE MORE TRICKY, BUT REALLY AIMED AT
20 EXPANDING THE FOCUS OF THE PROGRAM BEYOND JUST THE
21 DIVERSION AND MORE INTO THE BROADER MARKET
22 DEVELOPMENT FOCUS THAT WE FEEL IS NECESSARY AS WE
23 APPROACH OUR YEAR 2000 CHALLENGE OF 50-PERCENT
24 DIVERSION.

25 SO THANK YOU VERY MUCH. AND I HAVE

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1 SOME MORE DETAILS HERE IN A LETTER THAT I'LL LEAVE
2 HERE TODAY. THANK YOU.

3 BOARD MEMBER CHESBRO: MR. CHAIRMAN, THIS
4 COMES UNDER THE CATEGORY OF IMITATION IS THE
5 SINCEREST FORM OF FLATTERY. I RECENTLY BECAME
6 AWARE THROUGH THE WESTERN STATES RECYCLING
7 COALITION THAT STATE OF UTAH PASSED A MARKET
8 DEVELOPMENT ZONE LAW AND HAS DESIGNATED 18 ZONES
9 AROUND THE STATE. I GUESS, YOU KNOW, THEY -- IT
10 WAS MADE CLEAR TO ME BY THE PERSON THAT WAS
11 TELLING ME ABOUT IT THAT THEY VIEWED OUR SUPPLY
12 AND OUR CONTENT PROGRAMS AS OPPORTUNITIES FOR THEM
13 TO ATTRACT INDUSTRIES THAT COULD MORE OR LESS
14 CYCLE MATERIALS OUT OF CALIFORNIA, BUT THE GOOD
15 NEWS IS THAT THEY DON'T HAVE A LOAN PROGRAM, BUT
16 THEY DO HAVE A VARIETY OF TAX CREDITS THAT THEY
17 INCLUDED AS INCENTIVES FOR SITING BUSINESSES
18 AROUND UTAH. SO THE IDEA IS GETTING OUT THERE.
19 FORTUNATELY WE HAVE THE LOAN PROGRAM AND IT'S BEEN
20 RENEWED, WHICH I THINK IS A VERY SIGNIFICANT
21 INCENTIVE.

22 MS. BEEMAN: IT'S A COMPETITIVE EDGE.

23 BOARD MEMBER CHESBRO: YEAH. BUT I
24 THOUGHT IT WAS NOTEWORTHY THAT OTHER STATES ARE
25 BEGINNING TO FOLLOW OUR LEAD IN THE PROGRAM.

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1 CHAIRMAN PENNINGTON: JIM, DID YOU HAVE
2 WORDS FOR US?

3 MR. KUHL: SINCE CHRISTY TOOK UP ALL THE
4 TIME, I JUST DO WANT TO SAY THIS IS ACTUALLY THE
5 FIRST BILL I'VE REALLY EVER WORKED ON THAT WENT
6 THROUGH WITHOUT ANY LETTERS OF OPPOSITION FROM
7 ANYBODY, AND THAT'S VERY RARE IN THIS BUSINESS.
8 SO I WANT TO THANK ALL THE INDUSTRY SUPPORT, ALL
9 THE CITIES AND COUNTIES, AND THE BOARD FOR THEIR
10 SUPPORT ON THIS BILL. THANK YOU.

11 CHAIRMAN PENNINGTON: OKAY. THANK YOU
12 AND CONGRATULATIONS. TOM, THANK YOU FOR COMING
13 AND BEING WITH US.

14 MR. HIGGINS: ONE MORE LITTLE PART, IF I
15 COULD. THE -- I DO WANT TO THANK THE BOARD STAFF,
16 PATTY AND DOROTHY, BECAUSE IT WAS TRICKY TO, AS
17 THE CHAIRMAN KNOWS AND EVERY MEMBER, WE HAD TO
18 BALANCE THIS THING AND MAKE IT HAPPEN. AND IT WAS
19 A LOT OF WORK ON EVERYBODY'S PART TO BRING THE
20 BILL ALONG. AND ONE PERSON IN PARTICULAR HAS
21 HELPED ME UNDERSTAND THE SIGNIFICANCE OF MARKETS
22 AND THE WORK THAT NEEDED TO BE DONE TO DEVELOP
23 THEM HERE IN CALIFORNIA ALL THE WAY THROUGH. SO
24 IF THIS WERE AN AWARD, IT MIGHT BE CALLED THE
25 "THICK AND THIN AWARD" BECAUSE HE'S BEEN THERE

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1 THROUGH THICK AND THIN. I WANT TO SAY A SPECIAL
2 THANKS TO BOARD MEMBER RELIS AND GIVE HIM A COPY
3 OF THE BILL ALSO.

4 (APPLAUSE.)

5 BOARD MEMBER RELIS: WELL, FIRST, I'M
6 SURPRISED AND I APPRECIATE IT VERY MUCH, AND I
7 THINK IT IS A CREDIT TO THE WHOLE STATE, THE
8 GOVERNOR, THE LEGISLATURE, THE BOARD, AND
9 CERTAINLY TO THE RECYCLING MARKET DEVELOPMENT
10 ZONE, AND CERTAINLY TO YOUR OFFICE, THAT THIS HAS
11 FINALLY COME TO PASS, AND THE LOAN PROGRAM IS
12 SECURE AND AN INTEGRAL PART OF OUR EFFORTS.

13 I'D JUST TO ASK IF WE COULD MAKE
ONE
14 FURTHER REQUEST. WHILE I APPRECIATE THIS VERY
15 MUCH, WE'RE CREATING A SORT OF AN AWARDS ROOM FOR
16 THE BOARD IN TERMS OF OUR NOTABLE ACHIEVEMENTS,
17 AND I THINK THIS IS CERTAINLY A MILESTONE FOR THE
18 BOARD. AND COULD WE REQUEST ONE MORE OF THESE
FOR
19 THE ENTRYWAY? IS THAT POSSIBLE?

20 MR. HIGGINS: SURE.

21 BOARD MEMBER RELIS: I THINK I'LL PUT
YOU
22 ON THE SPOT NOW.

23 MR. HIGGINS: THANK YOU VERY MUCH.

24 CHAIRMAN PENNINGTON: THANK YOU. AND,
25 TOM, THANK YOU FOR BEING HERE THIS MORNING. AND
I

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1 WOULD LIKE FOR YOU TO BE SURE TO TELL THE SENATOR
2 THAT WE ARE GOING TO MISS HER LEADERSHIP IN THE
3 LEGISLATURE, AND THIS IS ALL ANOTHER GOOD REASON
4 WHY TERM LIMITS ARE BAD.

5 OKAY. NEXT WE HAVE, MR. CHESBRO,
6 CHAIR OF THE LOCAL ASSISTANCE AND PLANNING
7 COMMITTEE, TO MAKE A PRESENTATION.

8 BOARD MEMBER CHESBRO: MR. CHAIRMAN,
IT'S

9 MY PLEASURE TODAY TO ACKNOWLEDGE AND PRESENT A
10 RESOLUTION TO THE LOCAL GOVERNMENT COMMISSION
FOR
11 ALL OF ITS OUTSTANDING WORK OVER MANY YEARS IN
12 OPERATING THE CALMAX PROGRAM.

13 WE HAVE A LOT OF CONTRACTORS WHO
DO
14 WORK FOR THE BOARD, BUT I THINK THE LOCAL
15 GOVERNMENT COMMISSION HAS DISTINGUISHED ITSELF
AS
16 FAIRLY UNIQUE AMONGST CONTRACTORS IN TERMS OF
THE
17 DEGREE OF CREATIVITY AND COMMITMENT AND
DOWNRIGHT
18 LOVE I THINK THAT THEY HAVE INVESTED IN THIS
19 PROJECT DURING THE YEARS THAT THEY DID HAVE THE

20 CONTRACT.

21 SINCE CALMAX' INCEPTION IN 1992,
THE

22 LOCAL GOVERNMENT COMMISSION HAS COORDINATED THE

23 TECHNICAL ASPECTS OF THE PROGRAM, SUCH AS

UPDATING

24 THE DATABASE, PUBLISHING THE CATALOG, AND

25 PROMOTING THE CALMAX CATALOG. LGC HAS HELPED

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1 TRANSFORM THE CONCEPT OF CALMAX INTO A REALITY.

2 THEY PRODUCED THE FIRST CALMAX
3 CATALOG IN JANUARY OF 1992; AND BECAUSE OF ITS
4 EXCELLENT REPUTATION AMONG LOCAL GOVERNMENTS AND
5 BUSINESSES, THE LOCAL GOVERNMENT COMMISSION WAS
6 ABLE TO PROMOTE CALMAX EFFECTIVELY THROUGHOUT THE
7 STATE AND HELP CALMAX GROW. IT WAS A PREEEXISTING
8 ORGANIZATION WITH A VARIETY OF SERVICES THAT WERE
9 PROVIDED TO BUSINESS AND LOCAL GOVERNMENT. AND I
10 THINK THAT'S BEEN THE KEY TO THEIR EFFECTIVENESS
11 AS A CONTRACTOR FOR THE BOARD.

12 LGC HAS ENTHUSIASTICALLY PROMOTED
13 CALMAX AT TRADE SHOWS AND WORKSHOPS AND PRODUCED
14 TWO EXCELLENT PUBLICATIONS FOR THE BOARD,
15 "MARKETING TO THE MAX" AND "CALIFORNIA'S MATERIALS
16 EXCHANGE FACILITIES." IN 1993, 7700 CATALOGS WERE
17 PRINTED, AND THIS PEAKED AT 13,800 IN 1996. IN
18 THE FIVE YEARS THAT THE LOCAL GOVERNMENT
19 COMMISSION PROMOTED THE PROGRAM, MORE THAN 314,000
20 TONS OF MATERIAL HAVE BEEN DIVERTED FROM LANDFILLS
21 THROUGH CALMAX, SAVING CALIFORNIA BUSINESSES OVER
22 \$4 MILLION.

23 AND ALTHOUGH LGC IS NO LONGER THE
24 CONTRACTOR FOR CALMAX, WE WILL BE VERY GRATEFUL TO
25 THEM -- CONTINUE TO BE VERY GRATEFUL TO THEM FOR

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1 ALL THEIR HARD WORK AND EFFORTS TO GET US WHERE WE
2 ARE TODAY WITH THE PROGRAM. WE WANT TO THANK THE
3 LOCAL GOVERNMENT COMMISSION FOR THEIR EXCELLENT
4 SERVICE OVER THE PAST FIVE YEARS AND FOR HELPING
5 TO MAKE CALMAX A SUCCESSFUL PROGRAM.

6 AND I UNDERSTAND PAT STONER IS HERE
7 FROM THE LOCAL GOVERNMENT COMMISSION. YOU WANT TO
8 COME UP FORWARD TO THE PODIUM. I'LL BE DOWN THERE
9 IN A MOMENT.

10 I HAVE A RESOLUTION. WE'RE HANDING
11 OUT LOTS OF RESOLUTIONS TODAY, BUT THIS IS A VERY
12 SPECIAL AND HEARTFELT ONE.

13 WHEREAS, PROPER WASTE MANAGEMENT IS
14 ESSENTIAL FOR THE STATE TO CONTINUE THE ECONOMIC
15 STABILITY, ENVIRONMENTAL HEALTH, AND PUBLIC
16 SAFETY; AND

17 WHEREAS, CALIFORNIA'S INTEGRATED
18 WASTE MANAGEMENT LAWS REQUIRE AGGRESSIVE AND
19 INNOVATIVE PROGRAMS TO ACHIEVE THE STATE'S
WASTE

20 REDUCTION GOALS; AND

21 WHEREAS, THE BUSINESS COMMUNITY
22 GENERATES OVER 50 PERCENT OF THE MUNICIPAL
WASTE

23 IN CALIFORNIA; AND

24 WHEREAS, THE CALIFORNIA MATERIALS
25 EXCHANGE PROGRAM HAS ASSISTED BUSINESSES IN

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1 REUSING AND RECYCLING 300,000 TONS OF MATERIAL,
2 THEREBY SAVING THEM MILLIONS OF DOLLARS IN
3 DISPOSAL AND PROCUREMENT COST; AND

4 WHEREAS, THE LOCAL GOVERNMENT
5 COMMISSION HAS PROVIDED HIGH QUALITY, COST-
6 EFFECTIVE, AND VISIONARY CONTRACT SERVICES TO THE
7 CALMAX PROGRAM SINCE ITS INCEPTION IN 1991;

8 NOW, THEREFORE, BE IT RESOLVED THAT
9 THE CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD
10 DOES HEREBY COMMEND THE LOCAL GOVERNMENT
11 COMMISSION FOR ITS OUTSTANDING SERVICE TO THE
12 CALMAX PROGRAM, THEREBY HELPING CALIFORNIA
13 BUSINESSES SAVE MONEY WHILE CONSERVING ENERGY,
14 RESOURCES, AND LANDFILL SPACE.

15 I'D BE HAPPY TO PRESENT THIS TO PAT
16 ON BEHALF OF THE LGC. WE HAVE COPIES OF THE
17 FIRST AND THE MOST RECENT CATALOG INCLUDED IN THE
18 FRAMED COPY HERE.

19 (APPLAUSE.)

20 MR. STONER: GOOD MORNING. I'M HERE
21 ACTUALLY REPRESENTING THE TWELVE EMPLOYEES AT
22 LOCAL GOVERNMENT COMMISSION WHO HAVE WORKED ON
23 CALMAX FOR THE LAST FIVE YEARS. TWO OF THEM
ARE

24 HERE TOADY TOO, LEIF CHRISTIANSON AND TONY
25 LEONARD, AND THE THREE OF US COMPRISE THE LAST

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1 CALMAX CREW AT THE LOCAL GOVERNMENT COMMISSION.

2 WE APPRECIATE THIS RECOGNITION OF
3 OUR EFFORT TO IMPLEMENT ONE OF THE BOARD'S MOST
4 POPULAR PROGRAMS. I THINK EVERYBODY LIKES CALMAX
5 AND FOR GOOD REASON. WE ENJOYED WORKING ON THE
6 PROGRAM, AND WE ENJOYED WORKING WITH BOARD STAFF,
7 JOYCE MASON, KEVIN TAYLOR, AND KEN DECIO, AND WANT
8 TO WISH YOU CONTINUED SUCCESS FOR THE PROGRAM. SO
9 THANK YOU.

10 CHAIRMAN PENNINGTON: THANK YOU VERY
11 MUCH. THANK YOU.

12 NEXT WE HAVE PAUL RELIS, CHAIR OF
13 THE MARKET DEVELOPMENT COMMITTEE, TO MAKE A
14 PRESENTATION.

15 BOARD MEMBER RELIS: I WOULD TO ASK DR.
16 GERALD BONETTO, WHO'S HERE FROM THE PRINTING
17 INDUSTRIES OF CALIFORNIA, IF YOU COULD COME
18 FORWARD; FROM THE CALIFORNIA NEWSPAPER PUBLISHERS
19 ASSOCIATION, ROY HERBURGER, JACK BATES, AND TOM
20 NEWTON; AND FROM THE AMERICAN FOREST AND PAPER
21 ASSOCIATION, JAMES TISDALE. IF YOU COULD ALL
COME
22 FORWARD, PLEASE.

23 WELL, IT GIVES ME GREAT PLEASURE
TO

24 FOLLOW UP ON THE MARKET THEME THAT WE BEGAN
THESE
25 ACKNOWLEDGEMENTS WITH. THE STATE OF CALIFORNIA,

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1 THROUGH THE EFFORTS OF SENATOR KILLEA SOME YEARS
2 AGO, PASSED A MINIMUM CONTENT REQUIREMENT FOR
3 NEWSPRINT. AND I'M PLEASED TO STATE THAT THE
4 NEWSPAPER INDUSTRY AND ITS MANY FACETS, NEWSPRINT
5 PRODUCERS AND USERS, HAVE SUCCESSFULLY CROSSED THE
6 50-PERCENT THRESHOLD FIVE YEARS AHEAD OF SCHEDULE.

7 SO THIS IS A, I THINK, A VERY
8 REMARKABLE ACHIEVEMENT FOR THE STATE OF
9 CALIFORNIA, AND IT INDICATES A REMARKABLE DEGREE
10 OF INVESTMENT AND WILLINGNESS BY THE PAPER
11 INDUSTRY IN ITS BROADEST SENSE TO PURSUE THIS
12 OBJECTIVE, NOT ONLY TO PURSUE IT, TO MEET IT AND
13 TO MEET IT WELL AHEAD OF SCHEDULE. THAT'S A
14 RARITY IN ANY BUSINESS OF GOVERNMENT AND ATTESTS
15 TO, IN THIS CASE, I THINK, A PRIVATE AND PUBLIC
16 SECTOR PARTNERSHIP AND SUCCESSFUL ONE AT THAT.

17 SO I WOULD LIKE TO FIRST NOTE THE
18 FIRST CERTIFICATE OF RECOGNITION IS TO DR.
19 BONETTO, AND HE IS REPRESENTING THE PRINTING
20 INDUSTRIES OF CALIFORNIA. SO WE'LL TAKE A LITTLE
21 PHOTOGRAPH HERE.

22 (APPLAUSE.)

23 BOARD MEMBER RELIS: AND THEN ROY
24 HERBURGER, JACK BATES, AND TOM NEWTON. TOM
25 NEWTON, I DON'T KNOW WHO IS TAKING THE HONORS,
BUT

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1 THE NEWSPAPER PUBLISHERS. WITHOUT THE PUBLISHERS
2 BUYING THE PAPER, IT WOULDN'T WORK. SO VERY
3 HAPPY. THANK YOU VERY MUCH.

4 (APPLAUSE.)

5 BOARD MEMBER RELIS: AND FINALLY, JAMES
6 TISDALE, WHO IS HERE REPRESENTING THE AMERICAN
7 FOREST AND PAPER ASSOCIATION. AND WITHOUT -- THE
8 AMERICAN FOREST PAPER -- FOREST AND PAPER
9 ASSOCIATION HAS ACKNOWLEDGED THAT IT IS IN THE
10 PROCESS OF A \$10 BILLION INVESTMENT IN SECONDARY
11 CAPACITY OR THE ABILITY TO USE RECYCLED PAPER IN
12 THE UNITED STATES. AND THIS IS GOING TO PUT US,
13 NOT ONLY HERE IN CALIFORNIA, BUT THROUGHOUT THE
14 UNITED STATES AT A WORLD STANDARD FOR THE
15 CONSUMPTION OF OLD PAPER AND MAKING IT INTO NEW.
16 SO THIS IS A VERY, VERY IMPORTANT ACHIEVEMENT FOR
17 THE INDUSTRY. AND DO YOU HAVE ANYTHING TO TELL
18 US?

19 MR. TISDALE: WELL, I WANT TO THANK THE
20 USERS HERE IN CALIFORNIA, BOTH THE NEWSPAPERS AND
21 THE COMMERCIAL PRINTERS, AS WELL AS THE
22 COOPERATION THAT WE'VE HAD IN WORKING WITH THE
23 BOARD AND STAFF IN COMPLYING WITH REGULATIONS.
24 AND WITHOUT THAT COMMITMENT ON THE PART OF THE
25 PRIVATE SECTOR AND THE GOVERNMENT SECTOR WORKING

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1 TOGETHER, NONE OF THIS WOULD HAVE HAPPENED. SO I
2 THANK YOU VERY MUCH.

3 BOARD MEMBER RELIS: THANK YOU VERY MUCH.

4 CHAIRMAN PENNINGTON: OKAY. WE THANK YOU
5 VERY MUCH. AND AS AN ASSOCIATE MEMBER OF CNPA, I
6 LIKE TO SEE MY DUES GOING TO WORK THERE, 50 BUCKS
7 A YEAR.

8 YES, MR. CHESBRO.

9 BOARD MEMBER CHESBRO: I AM ALSO VERY,
10 VERY PLEASED AND PROUD OF THE ACHIEVEMENT OF THE
11 PRIVATE SECTOR. I DID WANT TO POINT OUT AT THE
12 SEPTEMBER MARKET DEVELOPMENT COMMITTEE MEETING, I,
13 WITH THE CONSENSUS OF THE OTHER MEMBERS, DID ASK
14 STAFF TO INVESTIGATE WHY THE STATE PRINTING OFFICE
15 REPORTEDLY IS CURRENTLY USING 15 PERCENT RECYCLED
16 CONTENT. IN THE CATEGORY OF WALKING YOUR TALK,
17 I'M HOPING THAT THE STATE WILL SOON CATCH UP TO
18 THE OUTSTANDING PERFORMANCE THAT WE'VE SEEN FROM
19 THE PRIVATE SECTOR HERE. SO I JUST WANTED TO MAKE
20 SURE THE OTHER BOARD MEMBERS WERE AWARE THAT THAT
21 HAD TAKEN PLACE. I KNOW THE MEMBERS OF THE
22 COMMITTEE WERE.

23 BOARD MEMBER RELIS: YES. MR. PENNINGTON
24 AND I SOME MONTHS AGO SENT OUT A LETTER TO THE
25 DIFFERENT AGENCIES REGARDING THE MINIMUM -- THE

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1 PROCUREMENT STANDARDS. AND, YES, WE'RE HOPEFUL
2 THAT THE STATE OFFICE PRINTING WILL GET ON BOARD
3 WITH A HIGHER RATE OF RECOVERY SOON.

4 BOARD MEMBER CHESBRO: MY PURPOSE IS NOT
5 TO DIMINISH THE ACHIEVEMENT AS TO CAST A LITTLE
6 SHAME ON OURSELVES AND TRY TO HOPE THAT WE CATCH
7 UP AND AT THE SAME TIME CONGRATULATING THE PRIVATE
8 SECTOR FOR ITS OUTSTANDING PERFORMANCE.

9 CHAIRMAN PENNINGTON: OKAY. NEXT IS ITEM
10 23, CONSIDERATION OF ADOPTION OF THE NEGATIVE
11 DECLARATION AND THE PROPOSED AMENDMENTS TO THE
12 SOURCE REDUCTION AND RECYCLING REGULATIONS. AND
13 WE HAVE JUDY FRIEDMAN HERE.

14 MS. FRIEDMAN: GOOD MORNING, CHAIRMAN
15 PENNINGTON AND BOARD MEMBERS. THE FOLLOWING THREE
16 ITEMS, AGENDA ITEMS 23, 24, AND 25, ARE
17 REGULATIONS FOR YOUR CONSIDERATION FOR FINAL
18 ADOPTION. THESE REGULATIONS DEAL WITH THE CONTENT
19 AND PROCEDURES FOR LOCAL PLANNING ELEMENTS.

20 THEY WERE ENACTED ON JANUARY 3,
21 1994, AS EMERGENCY REGULATIONS, AND THE BOARD HAD
22 THREE YEARS THROUGH SPECIAL STATUTORY DISPENSATION
23 IN WHICH TO MAKE THEM PERMANENT. FOR EACH AGENDA
24 ITEM THERE WILL BE TWO MOTIONS FOR ADOPTION: ONE
25 ON THE NEGATIVE DECLARATION AND ONE ON THE

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1 REGULATIONS THEMSELVES.

2 I'LL NOW INTRODUCE CHRIS DEIDRICK,
3 WHO WILL GIVE THE PRESENTATION FOR STAFF ON ALL OF
4 THE AGENDA ITEMS.

5 MR. DEIDRICK: GOOD MORNING, CHAIRMAN
6 PENNINGTON, BOARD MEMBERS. I'M SORRY THIS MORNING
7 I DON'T HAVE ANY AWARDS TO OFFER, BUT I'D LIKE TO
8 PRESENT FOR YOUR CONSIDERATION OF ADOPTION THE
9 NEGATIVE DECLARATIONS AND PROPOSED AMENDMENTS TO
10 PLANNING REGULATIONS CONTAINED IN ARTICLE 6.2,
11 6.4, AND 7.0.

12 THESE REGULATIONS ARE IN TITLE 14 OF
13 THE CALIFORNIA CODE OF REGULATIONS, DIVISION 7,
14 CHAPTER 9. AS STATED IN ITEMS 23, 24, AND 25, TO
15 COMPLY WITH THE CHANGES IN STATUTE, THE BOARD
16 FILED AMENDMENTS TO ARTICLE 6.2, 6.4, AND 7.0 WITH
17 THE OFFICE OF ADMINISTRATIVE LAW ON JANUARY 3,
18 1994. STATUTE ALLOWED THE EMERGENCY LANGUAGE TO
19 REMAIN IN EFFECT FOR THREE YEARS.

20 THE BOARD NOW HAS THREE YEARS IN
21 ORDER TO MAKE THESE REGULATIONS PERMANENT, AND
22 THAT BRINGS US TO JANUARY 3, 1997, TO ADOPT
23 PERMANENT REGULATIONS AND OBTAIN OFFICE OF
24 ADMINISTRATIVE LAW APPROVAL OR THE EMERGENCY
25 LANGUAGE IN THESE REGULATIONS WOULD BE REPEALED.

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1 THE 45-DAY PUBLIC REVIEW FOR THE
2 AMENDMENTS OF THESE ARTICLES ENDED ON OCTOBER 28,
3 1996. BOARD STAFF HELD ONE PUBLIC HEARING ON
4 NOVEMBER 4, 1996. WHAT FOLLOWS IS AN UPDATE ON
5 THE STATUS OF THE ADOPTION OF THE NEGATIVE
6 DECLARATIONS FOR THE PROPOSED REGULATIONS.

7 THE CALIFORNIA ENVIRONMENTAL QUALITY
8 ACT OR CEQA REQUIRES THAT POTENTIAL ENVIRONMENTAL
9 IMPACTS ASSOCIATED WITH AMENDMENT AND IMPLEMEN-
10 TATION OF THESE REGULATIONS BE ASSESSED WITHIN THE
11 SCOPE OF AN ENVIRONMENTAL DOCUMENT. FROM EACH --
12 OR FOR EACH OF THE AMENDED ARTICLES, STAFF
13 PREPARED AN INITIAL STUDY AND A PROPOSED NEGATIVE
14 DECLARATION AND FILED THEM WITH THE STATE
15 CLEARINGHOUSE FOR PUBLICATION OR PUBLIC CIRCULA-
16 TION ON OCTOBER 3, 1996.

17 THE CEQA PUBLIC NOTICES WERE
18 PUBLISHED IN THE "LOS ANGELES TIMES," THE "SAN
19 FRANCISCO CHRONICLE," AND THE "SACRAMENTO BEE" ON
20 OCTOBER 4, 1996. THE REVIEW PERIOD FOR CEQA
21 CLOSED ON NOVEMBER 4, 1996.

22 BOARD STAFF RECEIVED NO COMMENTS
23 DURING THIS REVIEW PERIOD. IN ADDITION, THE STATE
24 CLEARINGHOUSE HAS ACKNOWLEDGED THAT THE BOARD HAS
25 COMPLIED WITH THE STATE CLEARINGHOUSE REVIEW

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1 REQUIREMENTS FOR DRAFT ENVIRONMENTAL DOCUMENTS
2 PURSUANT TO CEQA.

3 WHAT FOLLOWS IS A BRIEF SUMMARY OF
4 THE COMMENTS RECEIVED DURING THE PUBLIC REVIEW FOR
5 EACH AMENDED ARTICLE. STAFF RECEIVED SIX COMMENT
6 LETTERS, AND ONE PERSON PRESENTED COMMENTS AT THE
7 PUBLIC HEARING FOR ARTICLE 6.2, THE SOURCE
8 REDUCTION/RECYCLING ELEMENT REGULATIONS. THESE
9 COMMENT LETTERS INCLUDED THREE GENERAL COMMENTS
10 AND NINE SPECIFIC COMMENTS FROM THE CITY OF
11 FORTUNA, THE OJAI VALLEY SANITARY DISTRICT, THE
12 CITY OF SAN DIEGO, THE CITY OF OAKLAND,
13 CALIFORNIANS AGAINST WASTE, THE REGIONAL COUNCIL
14 OF RURAL COUNTIES, AND INSTITUTE OF SCRAP
15 RECYCLING INDUSTRIES.

16 MOST OF THE COMMENTS WERE OUTSIDE
17 THE SCOPE OF THE PROPOSED REGULATORY CHANGES
18 AND/OR WOULD REQUIRE LEGISLATIVE CHANGE; HOWEVER,
19 SOME MINOR CHANGES WERE MADE IN RESPONSE TO THESE
20 COMMENTS.

21 STAFF RECEIVED TWO COMMENT LETTERS
22 AND NO ONE PRESENTED COMMENTS AT THE PUBLIC
23 HEARING FOR ARTICLE 6.4, THE NONDISPOSAL FACILITY
24 ELEMENT REGULATIONS. THESE COMMENT LETTERS
25 INCLUDED ONE GENERAL COMMENT AND ONE SPECIFIC

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1 COMMENT FROM THE CITY OF SAN DIEGO AND THE
2 CALIFORNIA TRADE AND COMMERCE AGENCY. BASED ON
3 THESE COMMENTS, MINOR CHANGES WERE MADE TO THE
4 TEXT OF ARTICLE 6.4.

5 FINALLY, STAFF RECEIVED THREE
6 COMMENT LETTERS AND ONE PERSON PRESENTED COMMENTS
7 AT THE PUBLIC HEARING FOR ARTICLE 7, THE
8 PROCEDURES FOR PREPARING AND REVISING CITY,
9 COUNTY, REGIONAL AGENCY SOURCE REDUCTION AND
10 RECYCLING ELEMENTS, HOUSEHOLD HAZARDOUS WASTE
11 ELEMENTS, AND NONDISPOSAL FACILITY ELEMENTS.
12 THESE COMMENT LETTERS INCLUDED TWO GENERAL
13 COMMENTS AND 14 SPECIFIC COMMENTS FROM THE CITY OF
14 SAN DIEGO, THE WEST CONTRA COSTA INTEGRATED WASTE
15 MANAGEMENT AUTHORITY, THE WASTE SYSTEM DIVISION,
16 AND THE COUNTY OF SAN BERNARDINO.

17 MOST OF THE COMMENTS WERE OUTSIDE
18 THE SCOPE OF THE PROPOSED REGULATORY CHANGES
19 AND/OR WOULD REQUIRE LEGISLATIVE CHANGE. NO
20 CHANGES WERE MADE BASED ON THESE COMMENTS.

21 THIS CONCLUDES THE UPDATE ON THE
22 PROPOSED AMENDMENTS TO ARTICLES 6.2, 6.4, AND 7.0.

23 BASED ON THE COMMENTS RECEIVED,
24 STAFF RECOMMENDS THAT THE BOARD CONSIDER THE
25 FOLLOWING: ONE, FOR AGENDA ITEM NO. 23, ADOPT

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1 NEGATIVE DECLARATION, RESOLUTION NO. 96-500, AND
2 PROPOSED AMENDMENTS TO ARTICLE 6.2, RESOLUTION NO.
3 96-499, AND DIRECT STAFF TO FORWARD THEM TO THE
4 OFFICE OF ADMINISTRATIVE LAW.

5 TWO, FORWARD AGENDA ITEM -- FOR
6 AGENDA ITEM NO. 24, ADOPT NEGATIVE DECLARATION,
7 RESOLUTION NO. 96-502, AND THE PROPOSED AMENDMENTS
8 TO ARTICLE 6.4, RESOLUTION NO. 501, AND DIRECT
9 STAFF TO FORWARD THEM TO THE OFFICE OF
10 ADMINISTRATIVE LAW.

11 AND THREE, FOR AGENDA NO. 25, ADOPT
12 THE NEGATIVE DECLARATION, RESOLUTION NO. 96-504,
13 AND THE PROPOSED AMENDMENTS TO ARTICLE 7.0,
14 RESOLUTION NO. 503, AND DIRECT STAFF TO FORWARD
15 THEM TO THE OFFICE OF ADMINISTRATIVE LAW.

16 THIS ENDS MY REPORT.

17 CHAIRMAN PENNINGTON: OKAY. THANK YOU.
18 ANY QUESTIONS FROM BOARD MEMBERS FOR STAFF? OKAY.
19 YOU NEED THIS TO BE DONE IN THREE MOTIONS?

20 MS. TOBIAS: SIX.

21 MS. FRIEDMAN: YEAH, WE NEED SIX.

22 CHAIRMAN PENNINGTON: SURE.

23 BOARD MEMBER FRAZEE: MR. CHAIR, I'LL
24 MOVE ADOPTION OF RESOLUTION 96-500, WHICH IS THE
25 NEGATIVE DECLARATION ON 6.2.

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1 BOARD MEMBER GOTCH: SECOND.

2 CHAIRMAN PENNINGTON: IT'S BEEN MOVED AND

3 SECONDED. WILL THE SECRETARY CALL THE ROLL.

4 BOARD SECRETARY: BOARD MEMBER CHESBRO.

5 BOARD MEMBER CHESBRO: AYE.

6 BOARD SECRETARY: FRAZEE.

7 BOARD MEMBER FRAZEE: AYE.

8 BOARD SECRETARY: GOTCH.

9 BOARD MEMBER GOTCH: AYE.

10 BOARD SECRETARY: RELIS.

11 BOARD MEMBER RELIS: AYE.

12 BOARD SECRETARY: CHAIRMAN PENNINGTON.

13 CHAIRMAN PENNINGTON: AYE.

14 BOARD MEMBER FRAZEE: THEN I'LL MOVE

15 ADOPTION OF RESOLUTION 96-499 IS THE REGULATION

16 ITSELF ON 6.2.

17 BOARD MEMBER GOTCH: SECOND.

18 CHAIRMAN PENNINGTON: MOVED AND SECONDED.

19 WILL THE SECRETARY CALL THE ROLL.

20 BOARD SECRETARY: BOARD MEMBER CHESBRO.

21 BOARD MEMBER CHESBRO: AYE.

22 BOARD SECRETARY: FRAZEE.

23 BOARD MEMBER FRAZEE:

AYE.

24 BOARD SECRETARY: GOTCH.

25 BOARD MEMBER GOTCH: AYE.

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1 BOARD SECRETARY: RELIS.

2 BOARD MEMBER RELIS: AYE.

3 BOARD SECRETARY: CHAIRMAN PENNINGTON.

4 CHAIRMAN PENNINGTON: AYE.

5 BOARD MEMBER FRAZEE: AND NEXT, ADOPTION

6 OF RESOLUTION 96-502 IS THE NEGATIVE DECLARATION

7 ON ARTICLE 6.4.

8 BOARD MEMBER GOTCH: SECOND.

9 CHAIRMAN PENNINGTON: MOVED AND SECONDED.

10 WILL THE SECRETARY CALL THE ROLL.

11 BOARD SECRETARY: BOARD MEMBER CHESBRO.

12 BOARD MEMBER CHESBRO: AYE.

13 BOARD SECRETARY: FRAZEE.

14 BOARD MEMBER FRAZEE: AYE.

15 BOARD SECRETARY: GOTCH.

16 BOARD MEMBER GOTCH: AYE.

17 BOARD SECRETARY: RELIS.

18 BOARD MEMBER RELIS: AYE.

19 BOARD SECRETARY: CHAIRMAN PENNINGTON.

20 CHAIRMAN PENNINGTON: AYE.

21 BOARD MEMBER FRAZEE: AND NEXT THE

22 RESOLUTION 96-501 IS THE REGULATIONS ON ARTICLE

23 6.4.

24 BOARD MEMBER GOTCH: SECOND.

25 CHAIRMAN PENNINGTON: MOVED AND
SECONDED.

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1 WILL THE SECRETARY CALL THE ROLL.

2 BOARD SECRETARY: BOARD MEMBER CHESBRO.

3 BOARD MEMBER CHESBRO: AYE.

4 BOARD SECRETARY: FRAZEE.

5 BOARD MEMBER FRAZEE: AYE.

6 BOARD SECRETARY: GOTCH.

7 BOARD MEMBER GOTCH: AYE.

8 BOARD SECRETARY: RELIS.

9 BOARD MEMBER RELIS: AYE.

10 BOARD SECRETARY: CHAIRMAN PENNINGTON.

11 CHAIRMAN PENNINGTON: AYE.

12 BOARD MEMBER FRAZEE: AND THEN RESOLUTION

13 96-504 IS THE NEGATIVE DECLARATION ON ARTICLE 7.0.

14 BOARD MEMBER GOTCH: SECOND.

15 CHAIRMAN PENNINGTON: MOVED AND SECONDED.

16 WILL THE SECRETARY CALL THE ROLL.

17 BOARD SECRETARY: BOARD MEMBER CHESBRO.

18 BOARD MEMBER CHESBRO: AYE.

19 BOARD SECRETARY: FRAZEE.

20 BOARD MEMBER FRAZEE: AYE.

21 BOARD SECRETARY: GOTCH.

22 BOARD MEMBER GOTCH: AYE.

23 BOARD SECRETARY: RELIS.

24 BOARD MEMBER RELIS: AYE.

25 BOARD SECRETARY: CHAIRMAN PENNINGTON.

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1 CHAIRMAN PENNINGTON: AYE.

2 BOARD MEMBER FRAZEE: AND THEN FINALLY,
3 MOVE ADOPTION OF RESOLUTION 96-503. THIS IS THE
4 REGULATIONS ON 7.0.

5 BOARD MEMBER CHESBRO: SECOND.

6 CHAIRMAN PENNINGTON: IT'S MOVED AND
7 SECONDED. WILL THE SECRETARY CALL THE ROLL.

8 BOARD SECRETARY: BOARD MEMBER CHESBRO.

9 BOARD MEMBER CHESBRO: AYE.

10 BOARD SECRETARY: FRAZEE.

11 BOARD MEMBER FRAZEE: AYE.

12 BOARD SECRETARY: GOTCH.

13 BOARD MEMBER GOTCH: AYE.

14 BOARD SECRETARY: RELIS.

15 BOARD MEMBER RELIS: AYE.

16 BOARD SECRETARY: CHAIRMAN PENNINGTON.

17 CHAIRMAN PENNINGTON: AYE. OKAY.

18 NOW WE'LL MOVE TO ITEM 28,
19 CONSIDERATION OF ADOPTION OF PROPOSED CHANGES TO
20 THE RECYCLED-CONTENT TRASH BAG REGULATION
21 PERTAINING TO THE PETITION FOR VARIANCE FOR
22 ADHESIVE, HEAT AFFIXED STRAP BAGS.

23 MS. TRGOVCICH: GOOD MORNING, MR.

24 CHAIRMAN. THE ITEM BEFORE YOU THIS MORNING IS THE
25 TRASH BAG REGULATIONS PERTAINING TO THE PETITION

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1 FOR VARIANCE, AS YOU STATED.

2 THIS ITEM WAS FORWARDED TO THE BOARD
3 FROM COMMITTEE WITH A SPECIFIC REQUEST FOR
4 FOLLOW-UP ON THREE ITEMS. THE FIRST ITEM WAS TO
5 PROVIDE MORE DETAILED RESPONSE TO COMMENTS. AS
6 YOU WILL RECALL FROM THE COMMITTEE MEETING, THERE
7 WERE COMMENTS SUBMITTED BY MULTIPLE PARTIES AT THE
8 DAY OF THE HEARING AND IMMEDIATELY PRIOR TO THE
9 HEARING.

10 SO WE HAVE PRESENTED TO YOU, I
11 BELIEVE WE ROUTED IT TO YOUR OFFICES YESTERDAY,
12 THE RESPONSE TO COMMENTS. WE ALSO FAX'D THOSE
13 RESPONSE TO COMMENTS TO INTERESTED PARTIES AS
14 WELL. JERRY HART WILL BE MAKING THAT
15 PRESENTATION.

16 JERRY WILL ALSO BE DESCRIBING FOR
17 YOU OR PROVIDING FOR YOU AN APPROXIMATE TIME FRAME
18 FOR PROCESSING A VARIANCE UNDER THE REGULATIONS
19 GIVEN THE EXISTING TIMETABLE THAT WE ARE UNDER AND
20 THE STAFF RECOMMENDATION TO PROCEED WITH AN
21 ADDITIONAL 15-DAY COMMENT PERIOD.

22 AND DEBBIE BORZELLERI OF THE LEGAL
23 STAFF WILL RESPOND TO THE TWO SPECIFIC ISSUES
24 RAISED FOR THE LEGAL OFFICE TO FOLLOW UP ON. I'LL
25 TURN THE PRESENTATION OVER TO JERRY NOW FOR A

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1 SUMMARY OF THE RESPONSE TO COMMENTS.

2 MR. HART: GOOD MORNING, MR. CHAIRMAN,
3 BOARD MEMBERS. MY NAME IS JERRY HART. I'VE BEEN
4 THE LEAD STAFF RESPONSIBLE FOR THE RECYCLED-
5 CONTENT TRASH BAG PROGRAM SINCE ITS INCEPTION IN
6 1991.

7 AS CAREN REVIEWED, WE HAD THE
8 INITIAL COMMENT PERIOD BEGINNING IN SEPTEMBER
9 FOLLOWING DIRECTION BY MARKET DEVELOPMENT
10 COMMITTEE TO INCORPORATE THE LIST OF EVIDENCE AND
11 A CRITERIA TO PROCESS A PETITION FOR A VARIANCE TO
12 THE RECYCLED-CONTENT TRASH BAG REQUIREMENTS IN
13 BOTH A POLICY AND IN REGULATIONS.

14 AT THE SEPTEMBER BOARD MEETING, THE
15 ITEM WAS PULLED OFF CONSENT CALENDAR, WHICH
16 EVENTUALLY RESULTED IN THE REMOVAL OF THE POLICY
17 OPTION. THEREFORE, WE PROCEEDED ONLY WITH THE
18 REGULATION PROCESS.

19 WE CONCLUDED THE 45-DAY COMMENT
20 PERIOD ON NOVEMBER 6TH PRIOR TO THE NOVEMBER 7TH
21 MARKET DEVELOPMENT COMMITTEE MEETING. DURING THE
22 45-DAY COMMENT PERIOD, WE RECEIVED FOUR COMMENT
23 LETTERS. AND ON THE OVERHEAD HERE, I HAVE A
24 SUMMARY OF THOSE COMMENTS AND SUMMARY OF BOARD
25 STAFF'S RESPONSE TO THOSE COMMENTS. ALSO, ON THE

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1 BACK TABLE ARE COPIES OF THE COMMENTS AND RESPONSE
2 TO COMMENTS AS WELL AS THE PROPOSED REVISIONS TO
3 THE REGULATIONS AS A RESULT OF THESE COMMENT
4 LETTERS.

5 THE FIRST COMMENT WE RECEIVED
6 SUGGESTED THAT THE PETITIONER ONLY NEED TO PROVIDE
7 EVIDENCE THAT TWO FACTORS EXISTED. ONE WAS THAT
8 THERE WERE TECHNOLOGICAL CONSIDERATIONS IN USING
9 POSTCONSUMER MATERIAL IN THE HEAT AFFIXED STRAP
10 BAGS, AND THE OTHER FACTOR THAT NEEDED TO BE
11 ESTABLISHED WAS THAT THESE TYPE OF BAGS, THE HEAT
12 AFFIXED STRAP BAGS, WERE PRODUCED BY THAT
13 MANUFACTURER PRIOR TO 1-1-95. THE COMMENT
14 SUGGESTED THAT IF THE PETITIONER COULD SHOW THESE
15 TWO FACTORS, THAT THE PETITION SHOULD BE GRANTED.

16 STAFF BELIEVES THAT THE STATUTE
17 ACTUALLY REQUIRES THE BOARD TO HEAR AND CONSIDER
18 ALL EVIDENCE PRESENTED AT THE PUBLIC HEARING TO
19 CONSIDER THE VARIANCE. THE BOARD DOES NOT HAVE
20 THE AUTHORITY OR THE ABILITY TO DECIDE THAT ONLY
A
21 COUPLE FACTORS OR SEVERAL FACTORS OR ANY LIMIT
ON
22 THE AMOUNT OF EVIDENCE PRESENTED AT THE HEARING
IS

23 POSSIBLE.

24 A SECOND COMMENT SUGGESTED THAT

THE

25 REGULATIONS MAY NOT BE NEEDED TO PROCESS THE

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1 PETITION AT ALL. STAFF FEELS THAT IT'S CRITICAL
2 TO PROVIDE THE PUBLIC, THE PETITIONING COMPANY,
3 AND ANY OTHER INTERESTED PARTIES WHO MAY WISH TO
4 PROVIDE TESTIMONY AT THE PUBLIC HEARING ON THE
5 PETITION A GUIDELINE, A FRAMEWORK, AN IDEA OF THE
6 TYPE OF INFORMATION THAT THE BOARD WOULD LIKE TO
7 SEE, WOULD LIKE TO HEAR, WOULD LIKE TO HAVE THE
8 OPPORTUNITY TO EVALUATE IN ORDER TO MAKE ITS
9 DECISION ON THE PETITION.

10 THEREFORE, WE FEEL THAT REGULATIONS
11 PROVIDE THESE GUIDELINES AND ARE REALLY CRITICAL
12 TO GIVING EVERYONE AN EQUAL SHOT AT PRESENTING
13 TESTIMONY ON THE HEARING.

14 THE THIRD COMMENT SUGGESTED THE
15 PROPOSED REGULATIONS REPEAT STATUTE AND,
16 THEREFORE, THAT SPECIFIC ITEM WAS UNNECESSARY.
17 THAT PARTICULAR ITEM WAS A REQUIREMENT THAT THE
18 PETITIONING COMPANY PRODUCE EVIDENCE THAT SHOWS
19 THAT THEY MANUFACTURED THOSE BAGS PRIOR TO 1-1-
20 95.
21 THAT'S A STATUTORY REQUIREMENT.

22 STAFF THROUGHOUT THE DEVELOPMENT
23 OF
24 THE PROGRAM HAS INCORPORATED PARTICULAR SECTIONS
25 OF THE STATUTE INTO THE REGULATIONS IN ORDER TO

24 KEEP ALL THE REQUIREMENTS OF THE PROGRAM

CONTAINED

25 IN ONE DOCUMENT. THIS HAS BEEN WELL RECEIVED BY

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1 THE REGULATED COMMUNITY. I THINK IT MAKES
2 UNDERSTANDING THE PROGRAM REQUIREMENTS AND THE
3 RESPONSIBILITIES A LOT EASIER ON EVERYONE
4 INVOLVED, STAFF INCLUDED, AND THAT REPEATING OR
5 THAT INCORPORATING OF STATUTE IN THE REGULATIONS
6 HAS ALSO BEEN APPROVED BY OAL IN PREVIOUS VERSIONS
7 OF THE REGULATIONS. THEREFORE, WE THINK IT
8 PROVIDES A VALUABLE SERVICE TO THE REGULATED
9 COMMUNITY AND THE PUBLIC IN GENERAL.

10 ANOTHER COMMENT SUGGESTED THAT THE
11 BOARD SHOULD NOT CONSIDER A COMPANY'S ABILITY TO
12 COMPLY WITH THE ANNUAL AGGREGATE USE REQUIREMENTS
13 FOR RPPCM IN THEIR MAKING A DETERMINATION ON THE
14 PETITION. STAFF BELIEVES THAT THIS IS ESSENTIAL
15 TO PROVIDING A FAIR, OPEN EVALUATION OF THE
16 PETITION.

17 A COMPANY'S ABILITY TO COMPLY WITH
18 THE USE REQUIREMENTS REALLY IS KIND OF A FIRST
19 QUESTION ONE MIGHT ASK IN DETERMINING THE NEED FOR
20 A VARIANCE. IF THE COMPANY CAN COMPLY WITHOUT THE
21 VARIANCE, WHY GRANT THE VARIANCE? WHY HAVE THE
22 HEARING?

23 STATUTE ALSO PROVIDES THE BOARD WITH
24 AUTHORITY TO IMPOSE CONDITIONS ON ANY VARIANCE
25 THAT IT MAY GRANT. AGAIN, A COMPANY'S ABILITY TO

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1 ATTAIN THE USE REQUIREMENT OR TO COME CLOSE OR ITS
2 PRESENTATION THAT SHOWS IT'S ABSOLUTELY INCAPABLE
3 OR UNABLE TO USE MUCH RPPCM AT ALL, AGAIN, WOULD
4 BE A BASIS FOR IMPOSING THOSE CONDITIONS ON THE
5 VARIANCE. SO WE THINK THAT ASKING FOR THIS TYPE
6 OF INFORMATION REGARDING A COMPANY'S ABILITY TO
7 COMPLY WITH THE USE REQUIREMENTS REALLY PROVIDES
8 SOMETHING VALUABLE TO THE BOARD IN MAKING THEIR
9 DECISION.

10 ANOTHER COMMENT SUGGESTS THAT THE
11 BOARD SHOULD NOT CONSIDER PROPRIETARY TRADE SECRET
12 OR CONFIDENTIAL INFORMATION. WITH THIS COMMENT
13 STAFF AGREES AND, THEREFORE, HAS PROPOSED THE ONE
14 REVISION TO THE REGULATIONS AS A RESULT OF THESE
15 COMMENTS. STAFF HAS PROPOSED A REVISION TO THE
16 INTRODUCTORY LANGUAGE ABOVE THE LIST OF EVIDENCE
17 TO NOT REQUIRE THE SPECIFIC DOCUMENTS, THE
18 SPECIFIC PIECES OF EVIDENCE LISTED. THE REVISION
19 OF THE REGULATIONS WOULD ALLOW THE PETITIONING
20 COMPANY TO SUBSTITUTE OTHER DOCUMENTS, TO PROVIDE
21 SIMILAR INFORMATION, TO PROVIDE SUMMARY
22 INFORMATION, TO PROVIDE DOCUMENTS WITH THE TRADE
23 SECRET OR PROPRIETARY INFORMATION BLACKENED OUT
OR
24 DELETED FROM THOSE DOCUMENTS SO THAT THE

25 PETITIONING COMPANY WOULD PROVIDE -- COULD MAKE

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1 ITS PRESENTATION WITHOUT REVEALING CONFIDENTIAL
2 INFORMATION.

3 STAFF BELIEVES THAT THE STATUTE
4 CLEARLY PROVIDES US DIRECTION IN THE PETITION
5 STATUTE WHERE IT DIRECTS THE BOARD TO CONSIDER
AND

6 PLACE INTO THE RECORD ALL INFORMATION, ALL DATA,
7 ALL EVIDENCE PRESENTED AT THE HEARING ON THE
8 PETITION.

9 ANOTHER COMMENT RECEIVED WAS THAT
10 THERE WERE NO NEED TO REQUEST SAMPLES. STAFF
11 IDENTIFIED IN ITS LIST OF CRITERIA THAT THE BOARD
12 WOULD LIKE TO SEE SAMPLES OF THE HEAT AFFIXED
13 STRAP BAG, WHICH ARE THE SUBJECT OF THE PETITION.
14 AND THE COMMENT SUGGESTED WAS THAT THEY WERE
15 PLANNING TO DO THIS ANYWAY AND THAT THERE WAS NO
16 NEED TO SPECIFICALLY REQUEST SAMPLES.

17 AND I THINK THIS, AGAIN, KIND OF
18 GOES DIRECTLY AT THE NEED FOR THE LIST OF
19 EVIDENCE, FOR THE CRITERIA, THAT BY LISTING THIS
20 TYPE OF INFORMATION AND THE CRITERIA BY WHICH THE
21 INFORMATION WILL BE WEIGHED, WILL BE EVALUATED BY
22 THE BOARD, IT GIVES EVERYONE, THE PETITIONING
23 COMPANY, STAFF, AND OTHER INTERESTED PARTIES WHO
24 MAY BE PROVIDING TESTIMONY AT THE PUBLIC HEARING,

25 AN IDEA OF THE INFORMATION THAT THE BOARD WANTS
TO

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1 HEAR, WANTS TO SEE, WANTS TO EVALUATE. THEN
2 THERE'S NO QUESTION.

3 IF WE DIDN'T LIST SAMPLES OR WE
4 DIDN'T LIST SOME OTHER TYPE OF INFORMATION, THAT
5 INFORMATION MAY NOT BE ADDRESSED; AND, THEREFORE,
6 THE PETITIONING COMPANY AND THE PUBLIC IN GENERAL
7 MAY HAVE A LEGITIMATE ARGUMENT, THAT THERE WAS NO
8 GUIDANCE. WE DID THE BEST WE CAN WITHOUT ANY
9 GUIDANCE FROM THE BOARD, AND IT ESSENTIALLY WAS
10 PRESENTING INFORMATION IN THE DARK, AND IT WAS
11 EITHER A HIT-OR-MISS SITUATION. THIS WAY WE GIVE
12 EVERYBODY INVOLVED A CLEAR UNDERSTANDING OF WHAT'S
13 EXPECTED, WHAT THEY'RE GOING TO LOOK FOR WITH THE
14 EXCEPTION OF A REQUIREMENT TO REVEAL PROPRIETARY
15 AND TRADE SECRET INFORMATION.

16 AGAIN, THEREFORE, WE THINK THE LIST
17 AND THE CRITERIA ARE ESSENTIAL TO PROVIDING A
18 FAIR, EVEN, OPEN FORUM FOR THE PUBLIC HEARING ON
19 THE PETITION.

20 ONE OF THE LAST COMMENTS REQUESTED
21 WAS -- OR REQUESTED THAT THE BOARD ADD A SIXTH
22 ITEM TO THE LIST OF EVIDENCE REQUESTING MORE
23 EMPIRICAL DATA TO EVALUATE THE PETITION. IN THE
24 PROPOSED LIST OF EVIDENCE, WE HAVE AN ITEM, I
25 BELIEVE IT'S NO. 4, WHICH DOES REQUEST TEST

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1 RESULTS DATA TO DOCUMENT, TO PROVIDE INFORMATION
2 FOR THE BOARD TO EVALUATE ON A COMPANY'S ABILITY
3 TO USE POSTCONSUMER MATERIAL. IT REQUESTS
4 INFORMATION FROM THE SUPPLIERS OF THE POSTCONSUMER
5 MATERIAL ON THAT MATERIAL. THEREFORE, WE THINK
6 THAT THIS ITEM HAS BEEN ADDRESSED. AGAIN, WE'RE
7 GIVING THEM A HEADS-UP THAT THIS IS THE TYPE OF
8 INFORMATION THAT THE BOARD WANTS TO SEE. AND WE
9 DON'T THINK ADDING ANOTHER ITEM WOULD HELP CLARIFY
10 THE LIST OF EVIDENCE.

11 FINALLY, WE HAVE A SUGGESTION THAT
12 THE BOARD PROVIDE A CLEARER STATEMENT OF THE
13 STATE'S INTEREST IN WASTE MINIMIZATION AND WASTE
14 DIVERSION, AND THE BOARD'S INTEREST IN SEEING THAT
15 INFORMATION PRESENTED TO EVALUATE THE PETITION.
16 AGAIN, WE HAVE THE LAST CRITERIA THAT ADDRESSES
17 THE BOARD'S INTEREST IN HOW THE PETITION WOULD
18 AFFECT WASTE MINIMIZATION AND DIVERSION IN THE
19 STATE. WE FEEL IT ADEQUATELY GIVES THE PUBLIC,
20 THE PETITIONING COMPANY, AND STAFF AN IDEA OF WHAT
21 THEY'RE GOING LOOKING FOR AND HOW THAT INFORMATION
22 WILL BE EVALUATED, AND, AGAIN, FEELS, AS WRITTEN,
23 THE CRITERIA IS ADEQUATE.

24 THEREFORE, WE'RE LEFT WITH THE ONE
25 PROPOSED REVISION TO THE REGULATIONS. THIS IS

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1 MAYBE NOT SO EASY TO SEE. BUT WE'RE AGAIN
2 ADDRESSING THE -- AS PREVIOUSLY WRITTEN, WE WERE
3 NOT ADDRESSING A COMPANY'S NEED OR ABILITY TO
4 PROVIDE CONFIDENTIAL TRADE SECRET OR PROPRIETARY
5 INFORMATION. THEREFORE, WE'RE SAYING IF PROVIDING
6 ANY OF THIS INFORMATION IDENTIFIED IN THE LIST OF
7 EVIDENCE WOULD REQUIRE YOU TO DO SO, AGAIN, YOU
8 MAY SUBSTITUTE DOCUMENTS OR PROVIDE SUMMARY
9 INFORMATION OR PROVIDE THAT INFORMATION SO THAT
10 YOU, THEREFORE, WOULD NOT BE REVEALING ANYTHING
11 THAT COULD BE CONSIDERED TRADE SECRET,
12 PROPRIETARY, OR CONFIDENTIAL.

13 THE LIST OF EVIDENCE, THE CRITERIA
14 REMAINS THE SAME AS PROPOSED. THE PROPOSED
15 REVISION TO THE REGULATIONS WOULD REQUIRE AN
16 ADDITIONAL 15-DAY COMMENT PERIOD, AGAIN, ON THIS
17 ONE PARAGRAPH. THAT WOULD PUT US INTO THE JANUARY
18 MARKET DEVELOPMENT COMMITTEE MEETING OR PERHAPS
19 THE JANUARY BOARD MEETING IF IT WAS THE BOARD'S
20 DESIRE TO SKIP THE COMMITTEE AND COME DIRECTLY TO
21 THE BOARD. THAT WOULD HAPPEN IN JANUARY. IF ALL
22 WENT WELL IN JANUARY, WE WOULD THEN BE SUBMITTING
23 THE RULEMAKING FILE TO OAL.

24 THEY HAVE 30 CALENDAR DAYS TO REVIEW
25 THE FILE AND EITHER APPROVE OR NOTIFY THE BOARD

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1 THAT CHANGES ARE REQUIRED. THAT WOULD PUT US INTO
2 MARCH, PERHAPS, FOR THE PUBLIC HEARING AND THE
3 MARCH BOARD MEMBER FOR THE BOARD MEETING FOR THE
4 ACTUAL PUBLIC HEARING ON THE PETITION.

5 AGAIN, THERE'S A COUPLE OF
6 OPPORTUNITIES TO SHORT-CIRCUIT THAT OR SHORTCUT
7 THAT TIME FRAME WITH THE BOARD'S DISCRETION OF
8 COMING BACK TO BOARD DIRECTLY RATHER THAN THE
9 COMMITTEE AT THE END OF THIS 15-DAY COMMENT
10 PERIOD. I BELIEVE WE ALSO HAVE THE ABILITY TO GO
11 AHEAD AND USE THE BOARD ADOPTED REGULATIONS TO
12 HEAR THE PUBLIC HEARING WITHOUT HAVING OAL
13 APPROVAL. THAT WOULD SAVE AT LEAST 30 OR 40
14 CALENDAR DAYS. BUT, IN ESSENCE, WE'RE PROBABLY
15 LOOKING AT SOMETIME OF MARCH '97 TIME FRAME FOR
16 THE PUBLIC HEARING ON THE PETITION.

17 CHAIRMAN PENNINGTON: OKAY. ANY
18 QUESTIONS OF THE STAFF?

19 MS. TRGOVCICH: MR. CHAIRMAN, I BELIEVE
20 THE LEGAL STAFF WOULD LIKE TO PRESENT A SUMMARY
21 OF
22 THEIR ANALYSIS ON THE TWO SPECIFIC POINTS
23 REQUESTED AT THE LAST COMMITTEE MEETING AS WELL.

24 MS. BORZELLERI: MORNING, MR. CHAIR AND
25 BOARD MEMBERS. DEBORAH BORZELLERI FROM THE

LEGAL
25 OFFICE.

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1 WE HAD TWO SPECIFIC QUESTIONS THAT
2 WERE ASKED AT THE MARKET DEVELOPMENT COMMITTEE
3 MEETING, AND I WANTED TO ADDRESS THOSE. WE HAVE
4 DONE A LEGAL ANALYSIS ON BOTH OF THEM AND WANTED
5 TO GIVE YOU INFORMATION AS REQUESTED.

6 THE FIRST QUESTION IS SORT OF AN
7 OVERARCHING QUESTION ABOUT THE REGULATIONS AS THEY
8 WERE PROPOSED AND WHETHER THEY ARE, IN FACT,
9 LEGALLY CONSISTENT WITH THE STATUTE AS IT'S
10 WRITTEN. AND I WANTED TO JUST GO THROUGH THAT
11 BRIEFLY.

12 WE LOOKED AT THAT AND WE BELIEVE THE
13 LAW STATES THAT THE ULTIMATE DETERMINATION OF
14 CONSISTENCY WOULD BE MADE BY A COURT, BUT WE'VE
15 DONE OUR BEST TO THAT MAKE INTERPRETATION FOR YOU.
16 THE BASIC STANDARD THEY WOULD LOOK AT IS A PLAIN
17 MEANING INTERPRETATION OF THE STATUTE. AND IF
18 THEY FOUND THAT THE BOARD MADE ITS OWN REASONABLE
19 INTERPRETATION AND IMPLEMENTED THAT WAY, THEN THE
20 REGULATIONS WOULD BE FOUND TO BE CONSISTENT.

21 A FUNDAMENTAL RULE IN STATUTORY
22 INTERPRETATION IS THAT WE LOOK AT THE STATUTE AS A
23 WHOLE, AND I THINK WE'VE DONE THAT. THERE ARE TWO
24 BASIC PROVISIONS IN SECTION 42298 THAT ADDRESS
25 THAT. THE BROADER PURPOSE OF THE STATUTE IS TO

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1 IMPOSE MINIMUM POSTCONSUMER REQUIREMENTS ON
2 MANUFACTURERS. IN THIS CASE PLASTIC TRASH BAG
3 MANUFACTURERS THAT PRODUCE BAGS WITH HEAT AFFIXED
4 STRAPS WERE EXEMPTED FROM THE REQUIREMENTS FOR THE
5 YEAR 1996. AND THEN, OF COURSE, THAT THE
6 ADDITIONAL PROVISION ALLOWS THEM TO PETITION THE
7 BOARD TO ALLOW FOR THE EXTENSION OF THAT
8 EXEMPTION.

9 THE PROVISION REQUIRES THE BOARD TO
10 HOLD A HEARING AND HEAR ALL EVIDENCE RELATED TO
11 THE PETITION, INCLUDING BUT NOT LIMITED TO
12 TECHNOLOGICAL CONSIDERATIONS. AND THE PROVISION
13 FURTHER ALLOWS THE BOARD TO IMPOSE CONDITIONS ON
14 ANY VARIANCE GRANTED THAT WOULD REQUIRE THE
15 PETITIONER TO COMPLY TO SOME OR ALL OF THE STATUTE
16 BASED ON THE BOARD'S DETERMINATION OF THE
17 PETITIONER'S ABILITY TO COMPLY.

18 WE THINK THAT THOSE TWO BASIC ISSUES
19 ARE ADDRESSED IN THE REGULATIONS. INFORMATION
20 THAT WE GAIN FROM THE REQUIREMENTS IN THE
21 REGULATIONS WILL ALLOW THE BOARD TO LOOK AT
22 WHETHER THE PETITIONER CAN IN FACT COMPLY, AND WE
23 THINK THAT'S APPROPRIATE. IF THE PETITIONER IS
24 OTHERWISE ABLE TO COMPLY WITH THE STATUTE, THEN IT
25 WOULD RENDER THE VARIANCE UNNECESSARY. AND THEN

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1 REGARDLESS OF WHETHER THE PETITIONER CAN COMPLY,
2 THE ADDITIONAL INFORMATION WILL ALLOW THE BOARD TO
3 IMPOSE ANY ADDITIONAL CONDITIONS THAT THEY WANT.

4 SO WE DO MAKE A FINDING THAT THE
5 REGULATIONS AS WRITTEN ARE CONSISTENT WITH THE
6 STATUTE. AND THEN IT'S UP TO THE BOARD TO
7 DETERMINE IF THEY WANT TO ADOPT THEM AS THEY ARE
8 WRITTEN.

9 THE OTHER QUESTION THAT THE BOARD
10 ASKED IS WHAT IS IRONCLAD'S STATUS IF THE BOARD
11 DOESN'T GRANT THE VARIANCE PRIOR TO JANUARY 1,
12 '97. AND WE BELIEVE THAT SINCE IRONCLAD'S FILED
13 THEIR PETITION ALREADY, THEY'RE IN COMPLIANCE WITH
14 THE PETITION PORTION OF THE STATUTE, AND THEY'RE
15 PENDING A DETERMINATION, BUT THEY WILL BE
16 CONSIDERED NEITHER IN COMPLIANCE OR OUT OF
17 COMPLIANCE WITH THE STATUTE AFTER JANUARY 1.

18 IF A VARIANCE IS GRANTED, IT WILL
19 BECOME OPERATIVE JANUARY 1, '97. IF THE
20 DETERMINATION IS MADE AFTER JANUARY 1, '97, THE
21 VARIANCE WILL BE RETROACTIVE TO JANUARY 1, '97.
22 SO THERE WON'T BE AN ISSUE. IF THE VARIANCE
23 ISN'T

24 GRANTED, OF COURSE, AS I MENTIONED BEFORE,
IRONCLAD WILL BE STATUTORILY REQUIRED TO COME

INTO

25

COMPLIANCE WITH THE STATUTE BECAUSE THEIR AUTO-

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1 MATIC EXEMPTION EXPIRES ON DECEMBER 31, '96. IF
2 THE DETERMINATION ON THE VARIANCE IS MADE AFTER
3 JANUARY 1, '97, THEN IT'S UP TO THE BOARD TO MAKE
4 A DECISION AS TO WHETHER THEY WANT TO IMPOSE ANY
5 SORT OF ENFORCEMENT OR COMPLIANCE AUTHORITY ON
6 IRONCLAD FOR NOT COMPLYING AS OF JANUARY 1.

7 CERTIFICATIONS FOR COMPLIANCE WILL
8 NOT BE REQUIRED UNTIL MARCH OF '98, SO THE ISSUE
9 WON'T ACTUALLY BE RAISED UNTIL THEN AS TO WHETHER
10 THEY'RE IN COMPLIANCE OR NOT. ANY QUESTIONS?

11 CHAIRMAN PENNINGTON: IF THEY -- YOU ARE
12 NOT -- WE DON'T FIND OUT WHETHER THEY'RE IN
13 COMPLIANCE OR NOT UNTIL '98?

14 MS. BORZELLERI: RIGHT BECAUSE WE LOOK AT
15 THE ENTIRE YEAR.

16 CHAIRMAN PENNINGTON: SO COULD WE --
17 COULD WE ISSUE A TEMPORARY VARIANCE UNTIL WE GET
18 THROUGH ALL THE OTHER?

19 MS. BORZELLERI: MR. CHAIRMAN, WE DON'T
20 FIND ANY AUTHORITY TO ISSUE A TEMPORARY VARIANCE,
21 AND THE STATUTE REQUIRES THAT THE BOARD HEAR
22 EVIDENCE AND MAKE A DETERMINATION.

23 CHAIRMAN PENNINGTON: SO THEY'RE AT RISK
24 EVEN THOUGH WE'RE AT FAULT?

25 MS. TRGOVCICH: I'D LIKE TO POINT OUT,

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1 MR. CHAIRMAN, THAT AT THE SEPTEMBER MARKET
2 DEVELOPMENT COMMITTEE, THE MOTION WAS TO BOTH MOVE
3 FORWARD WITH REGULATIONS AND SIMULTANEOUSLY
4 PROCESS THE VARIANCE REQUEST. I BELIEVE THAT IT
5 WAS THE COMMENT OF IRONCLAD THAT THEY WISH TO WAIT
6 UNTIL THE REGULATIONS HAD MOVED THROUGH THE FORMAL
7 ADOPTION PROCESS TO WAIT FOR THAT PETITION TO BE
8 HEARD.

9 BOARD MEMBER CHESBRO: I BELIEVE WE WERE
10 RESPONDING TO IRONCLAD'S REQUEST AND INTEREST AT
11 THAT TIME.

12 CHAIRMAN PENNINGTON: RIGHT. I JUST
13 WONDERED IF WE -- IF WE, BY OUR OWN ACTIONS, PUSH
14 THIS OUT TO A DATE THAT'S PAST THE JANUARY 1 DATE
15 AND THEY'RE AT RISK THEN, EVEN IF THAT'S OUR
16 DECISION. I UNDERSTAND. OKAY. OKAY.

17 BOARD MEMBER FRAZEE: ON THE ISSUE OF
18 CONFIDENTIALITY AND TRADE INFORMATION, THE NEXT
19 ITEM, ITEM 29, DEALS WITH THAT AS A MATTER OF
20 POLICY, BUT AS I UNDERSTAND, WE'RE PUTTING THAT
21 ISSUE IN REGULATION -- AMENDED INTO REGULATION,
22 THEN IS THERE NECESSITY TO GO AHEAD WITH THE
23 POLICY ITEM ON CONFIDENTIALITY ALSO?

24 MS. TRGOVCICH: MR. FRAZEE, THE ITEM NO.
25 29 DOES NOT PERTAIN TO THE VARIANCE. IT PERTAINS

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1 TO THE PUBLIC RECORDS ACT REQUEST AROUND THE PRIOR
2 YEARS' CERTIFICATIONS. SO THEIR CONFIDENTIALITY
3 IS ADDRESSED IN BOTH ITEMS; HOWEVER, ITEM NO. 29
4 PERTAINS SPECIFICALLY TO PRIOR YEAR CERTIFICATIONS
5 AND NOT A VARIANCE REQUEST.

6 BOARD MEMBER FRAZEE: HAVE WE HAD ONE OF
7 THOSE? HAVE WE HAD A PRIOR YEAR CERTIFICATION?

8 MS. TRGOVCICH: YES. WE HAVE
9 CERTIFICATIONS GOING BACK, I BELIEVE, TO 1993.

10 BOARD MEMBER FRAZEE: SO IN ADDITION TO
11 THE STATUTORY EXEMPTION PREVIOUSLY, WE ALSO HAVE
12 CONSIDERED COMPLIANCE WITH THAT?

13 MS. TRGOVCICH: COMPLIANCE WITH THE
14 PROVISIONS OF STATUTE. MAYBE JERRY CAN TAKE A
15 MOMENT TO SUMMARIZE WHAT THE YEAR-END
16 CERTIFICATIONS COVER.

17 MR. HART: YES. AS DEBORAH SUGGESTED, WE
18 HAVE -- WE COLLECT THE ANNUAL CERTIFICATIONS.
19 THEY'RE DUE MARCH 1ST OF THE FOLLOWING YEAR FOR
20 THE PREVIOUS CALENDAR YEAR REPORTING PERIOD. SO
21 WE HAVE ANNUAL CERTIFICATIONS RECEIVED FROM
22 CERTIFYING TRASH BAG MANUFACTURERS FOR CALENDAR
23 YEAR '93, '94, AND '95.

24 BOARD MEMBER FRAZEE: THAT'S ALL
25 MANUFACTURERS?

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1 CHANGE -- WHILE THAT CHANGE GIVES US MORE
2 FLEXIBILITY IN HOW TO PRESENT EVIDENCE, WHEN YOU
3 LOOK AT THE CRITERIA, WE COULD STILL BE PUT IN A
4 CATCH 22 SITUATION WHERE THE ONLY WAY WE CAN PROVE
5 OR TO MEET THE CRITERIA THAT THE BOARD WOULD
6 CONSIDER IN MAKING A DECISION IS TO PRESENT
7 CONFIDENTIAL INFORMATION. AND AGAIN, I THINK THAT
8 GOES BEYOND REALLY THE SCOPE OF THE STATUTE. LET
9 ME ADDRESS THAT ISSUE SEPARATELY.

10 MR. HART SAID, AS DID MS.
11 BORZELLERI, THAT THE PROVISION IN THE STATUTE THAT
12 SAYS THAT THE BOARD SHALL REVIEW AND ENTER INTO
13 THE RECORD ANY EVIDENCE PRESENTED ALSO PROVIDES A
14 BASIS FOR THE BOARD REQUIRING ANY EVIDENCE THAT IT
15 MIGHT WANT TO REQUIRE, AND I READ THAT LANGUAGE
16 VERY DIFFERENTLY. IT SAYS THE BOARD SHALL ENTER
17 INTO THE RECORD AND REVIEW ANY EVIDENCE PRESENTED.
18 IT DOESN'T NECESSARILY LEAVE WIDE OPEN THE
19 EVIDENCE THAT THE BOARD COULD REQUIRE IN MAKING A
20 DECISION ON THAT.

21 AND, FOR EXAMPLE, I'M PARTICULARLY
22 BOTHERED BY THE FAILURE OF THE REGULATIONS AND THE
23 EVIDENTIARY PORTION INITIALLY TO SAY ANYTHING AT
24 ALL ABOUT THE TECHNOLOGICAL ISSUES INVOLVED IN
25 ATTACHING A STRAP TO A TRASH BAG CONTAINING

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1 POSTCONSUMER RECYCLED CONTENT. THAT'S WHAT THE
2 VARIANCE STATUTE IS ALL ABOUT. THAT'S WHAT OUR
3 EVIDENCE IS GOING TO BE ABOUT. THAT'S WHERE WE
4 HAVE A DIFFICULTY. WE CANNOT ATTACH A STRAP TO A
5 BAG CONTAINING THE POSTCONSUMER RECYCLED CONTENT.
6 AND YET NOWHERE DOES THE EVIDENCE IN THIS PROPOSED
7 REGULATION REALLY ADDRESS THAT PARTICULAR ISSUE.

8 IN THE FIFTH EVIDENTIARY ITEM, IT
9 STILL BASICALLY PUTS THE BURDEN ON US TO
10 DEMONSTRATE THAT WE CANNOT ATTAIN THE ANNUAL
11 AGGREGATE USE. AND AGAIN, AS I READ THE STATUTE,
12 IT SEEMS TO ME THAT THAT GOES BEYOND THE
13 TECHNOLOGICAL ISSUE ABOUT AFFIXING STRAPS TO TRASH
14 BAGS.

15 THE CHANGE MADE, HOWEVER, AS I SAY,
16 DOES PROVIDE MORE FLEXIBILITY IN TERMS OF THE
17 EVIDENCE, BUT THE CRITERIA, I THINK, TAKES AWAY
18 THAT FLEXIBILITY TO A GREAT EXTENT. AND LET ME
19 MAKE THREE POINTS WITH RESPECT TO THE CRITERIA.
20 ONE OF THE THINGS THAT IS OBVIOUS FROM THE
21 STATUTE, AND MR. HART POINTED THIS OUT, AND I HAD
22 ARGUED BEFORE THE MARKET DEVELOPMENT COMMITTEE
23 THAT IT WAS UNNECESSARY BECAUSE THE STATUTE
24 REQUIRES IT IS THAT -- THAT A COMPANY TO BE
25 ELIGIBLE FOR A VARIANCE HAS TO HAVE PRODUCED

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1 ADHESIVE, HEAT AFFIXED STRAP TRASH BAGS PRIOR TO
2 JANUARY 1, 1995. AND, OF COURSE, THAT'S PART OF
3 THE EVIDENCE THAT THE REGULATIONS WOULD REQUIRE US
4 TO PRODUCE. AND YET NOWHERE IS THAT A CRITERIA
5 THAT THE BOARD IS GOING TO CONSIDER. IT SEEMS
6 LIKE AN OBVIOUS OMISSION THERE.

7 THE SECOND POINT IS THAT, AGAIN, THE
8 ISSUE IS ARE WE PRECLUDED FROM TECHNOLOGICAL
9 LIMITATIONS FROM ATTACHING A STRAP TO A TRASH BAG
10 CONTAINING POSTCONSUMER RECYCLED CONTENT. THAT
11 SEEMS TO ME TO BE AGAIN A FAIRLY OBVIOUS CRITERIA
12 THAT THE BOARD SHOULD LOOK AT, AND THAT'S NOT
13 INCLUDED IN THE CRITERIA AS WELL.

14 IT SEEMS TO ME THAT IF THE BOARD
15 WANTS TO ADOPT REGULATIONS -- AND IT'S TRUE THAT I
16 ARGUED BEFORE THE MARKET DEVELOPMENT COMMITTEE
17 THAT LET'S HAVE A VARIANCE HEARING IN DECEMBER.
18 LET'S GET THIS DONE -- MS. BORZELLERI'S REPORT IN
19 TERMS OF THE STATUS AND THE LEGAL EFFECT OF NOT
20 HAVING A VARIANCE BY JANUARY 1ST IS REASSURING, AT
21 LEAST TO THE EXTENT THAT I UNDERSTAND WHAT SHE WAS
22 REPORTING TO YOU. AND I'D LIKE TO FOLLOW UP ON
23 THAT, BUT AT LEAST IF WE'RE GOING TO ADOPT
24 REGULATIONS, LET'S MAKE THE CRITERIA CONSISTENT
25 WITH THE STATUTE. LET'S MAKE SURE THAT THE KINDS

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1 OF EVIDENCE THAT I KNOW THAT'S GOING TO BE BEFORE
2 YOU IS THE KIND OF EVIDENCE THAT YOU CAN CONSIDER
3 AND CAN BASE A DECISION ON THAT.

4 AND WHAT I WOULD LIKE TO URGE THIS
5 BOARD TO DO IS TO -- IS TO ENCOURAGE THE STAFF TO
6 MEET WITH THE STAKEHOLDERS -- IN PARTICULAR BY
7 THAT I MEAN IRONCLAD -- AND LET'S SEE IF WE CAN
8 WORK OUT THE DIFFERENCES, COME UP WITH A
9 REGULATION THAT MAKES SENSE, THAT'S CONSISTENT
10 WITH THE STATUTE, THAT'S CONSISTENT WITH THE KIND
11 OF EVIDENCE THAT WE KNOW IS GOING TO BE PRESENTED
12 AND THAT GIVES YOU THE AUTHORITY TO MAKE A
13 DECISION ON THE BASIS OF THE EVIDENCE THAT IS
14 RELEVANT AND THAT'S GOING TO BE BEFORE YOU. AND
15 I'D LIKE TO HAVE AN OPPORTUNITY TO DO THAT, AND
16 I'D ASK YOU FOR YOUR HELP IN THAT REGARD.

17 WITH RESPECT TO THE STATUS OF
18 IRONCLAD, MAYBE I COULD JUST FOLLOW UP A LITTLE
19 BIT WITH THAT. AS I UNDERSTAND, BASICALLY THE
20 STATUTE AND THE REGULATIONS REQUIRE A MANUFACTURER
21 TO ACHIEVE A CERTAIN AVERAGE IN ALL OF ITS TRASH
22 BAGS IN THE TWELVE-MONTH PERIOD, SO WE'RE TALKING
23 ABOUT JANUARY 1ST TO DECEMBER 31, 1997. AND SO
24 THAT IF IRONCLAD ACHIEVES THAT 30 PERCENT, IT
25 DOESN'T MATTER WHETHER IT MANUFACTURES STRAP BAGS

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1 WITHOUT ANY POSTCONSUMER RECYCLED-CONTENT OR NOT.
2 IS THAT WHAT YOU WERE SAYING IN RESPONSE TO THE
3 CHAIRMAN'S QUESTION?

4 MS. BORZELLERI: YES.

5 MR. LIVINGSTON: SO THAT COME JANUARY
6 1ST, WE CAN CONTINUE TO MANUFACTURE THE STRAP BAG,
7 AND THAT THAT DOESN'T AFFECT, AS YOU SAID, WE'RE
8 NOT OUT OF COMPLIANCE AT THAT POINT, OUR BAGS ARE
9 NOT OUT OF COMPLIANCE.

10 MS. BORZELLERI: THAT IS CORRECT.

11 MR. LIVINGSTON: ALL RIGHT. I THINK THAT
12 THAT CAUSES ME TO FEEL MORE COMFORTABLE ABOUT THE
13 FACT THAT WE WILL NOT HAVE A VARIANCE HEARING
14 UNTIL MARCH AT THE EARLIEST AND I THINK WOULD
15 CAUSE ME TO SAY, "OKAY. IF YOU WANT TO GO AHEAD
16 WITH REGULATIONS, LET'S JUST WORK ON IT AND GET
17 THOSE REGULATIONS RIGHT THEN."

18 CHAIRMAN PENNINGTON: OKAY. ANY
19 QUESTIONS OF MR. LIVINGSTON? OKAY. THANK YOU,
20 MR. LIVINGSTON.

21 NEXT WE HAVE DARLENE RUIZ.

22 MS. RUIZ: GOOD MORNING, MR. CHAIRMAN,
23 MEMBERS OF THE BOARD. DARLENE RUIZ HERE ON BEHALF
24 OF FIRST BRANDS CORPORATION TO COMMENT UPON A
25 RULEMAKING PACKAGE WHICH I BELIEVE IS EVOLVING

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1 WITH A GREAT DEAL OF THOUGHTFULNESS AND
CONSIDERA-

2 TION, AND I APPRECIATE THE OPPORTUNITY TO ADDRESS
3 YOU IN THIS FORUM.

4 OUR CONTINUING CONCERN, IN LIGHT OF
5 THE PROPOSED CHANGES, WE RECOGNIZE THAT YOUR
STAFF

6 IS HAVING A VERY DIFFICULT TIME. YOU ARE TRYING
7 TO WEIGH THE COMPLEXITIES OF CONFIDENTIALITY,
8 TRADE SECRETS AGAINST THE PUBLIC HEARING AND THE
9 RIGHT OF THE PUBLIC TO MEANINGFULLY PARTICIPATE
10 BEFORE YOU. AND THEY CANNOT DO SO IF PEOPLE ARE
11 SUBMITTING EVIDENCE WHICH THEY CLAIM
CONFIDENTIAL.

12 WE RECOGNIZE THAT DILEMMA, AND WE
13 APPRECIATE THAT YOUR STAFF IS MAKING EVERY
ATTEMPT

14 TO TRY AND ADDRESS THOSE KINDS OF CONCERNS. BUT
15 WE ALSO FEEL THAT WHERE THE STAFF HAS CONCLUDED
16 THAT YOU DON'T NEED ANY MORE TECHNICAL DATA IN
17 ORDER TO MAKE THESE DETERMINATIONS, THAT WE THINK
18 THAT MIGHT ACTUALLY HELP YOU RESOLVE THIS
DISPUTE.

19 THE BOARD CERTAINLY HAS THE POWER TO RECEIVE THE
20 NECESSARY FEES FROM THE PETITIONING PARTY TO

COVER

21 THE COLLECTION OF DATA. THE OBTAINING OF THE
BAGS

22 COULD UNDERGO THEIR OWN TESTING REQUIREMENTS.

THE

23 PARTIES COULD AGREE WITH YOU AS TO THE PROTOCOLS

24 OF THOSE TESTS TO BE CONDUCTED, AND YOU WOULD

HAVE

25 AN INDEPENDENT SOURCE OF EVIDENCE FOR

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1 CONSIDERATION.

2 SO AGAIN, WE WOULD REFER YOU TO THE
3 TENNECO COMMENTS WHICH FURTHER SUPPORT MORE DATA
4 AND PERHAPS INDEPENDENT TESTING DATA UPON WHICH
5 THE BOARD COULD RELY.

6 WE'D ALSO -- WE ALSO APPRECIATE THAT
7 THE BOARD HAS THE QUESTION OVER WHAT THE IMPACTS
8 ARE TO IRONCLAD GIVEN THE DELAY. I AGREE WITH
9 COUNSEL. WE TOO HAVE RESEARCHED THIS MATTER AND
10 CONCLUDE THAT INDEED THERE IS NO HARM TO IRONCLAD,
11 CERTAINLY NO IMMEDIATE HARM TO IRONCLAD, SHOULD
12 THIS MATTER GO ON INTO THE SPRING, AND THAT IT
13 DOES ALLOW THIS BOARD TO DO THIS IN AN ORDERLY
14 FASHION AND WILL ALLOW YOU TO HAVE REGULATIONS AND
15 THEN AN ORDERLY PROCEEDING THAT PEOPLE CAN
16 MEANINGFULLY PARTICIPATE IN, KNOWING THE RULES,
17 KNOWING THE GUIDANCE, KNOWING THE CRITERIA. AND
18 SO WE WOULD URGE YOU TO CONTINUE WITH THAT FORMAT
19 BECAUSE THAT WILL PRODUCE AN END RESULT THAT WILL
20 BE LEGALLY DEFENSIBLE AND, THEREFORE, MAKE SENSE
21 TO ALL WHO ARE INVOLVED.

22 AGAIN, FIRST BRANDS STANDS READY TO
23 CONTINUE TO PARTICIPATE IN THIS. WE DID HAVE SOME
24 CONCERNS WITH IRONCLAD'S REQUESTING AN OPPORTUNITY
25 TO SIT DOWN WITH STAFF AND WORK OUT NUMEROUS

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1 MATTERS, WHATEVER THEY MAY BE. I DON'T KNOW ABOUT
2 IRONCLAD, BUT WE HAVE CERTAINLY EXPERIENCED THAT
3 THIS STAFF IS ALWAYS OPEN AND READY TO MEET WITH
4 FOLKS AND ENCOURAGES THAT KIND OF PARTICIPATION IN
5 ORDER TO RESOLVE THESE ISSUES BEFORE THEY COME TO
6 THIS BOARD. AND SO WE LOOK FORWARD TO PARTICI-
7 PATING IN ANY SUCH TECHNICAL MEETINGS WHICH MIGHT
8 HELP MOVE THESE TECHNICAL ISSUES FORWARD TO YOU.
9 THANK YOU FOR THIS OPPORTUNITY.

10 CHAIRMAN PENNINGTON: THANK YOU. ANY
11 QUESTIONS OF MR. RUIZ? OKAY.

12 NEXT WE HAVE NANCY VOS.

13 MS. VOS: HI. NANCY VOS, AND I
14 REPRESENT -- I ACTUALLY WORK DIRECTLY FOR
15 POLY-AMERICA, SO FORGIVE ME IF I'M A LITTLE
16 NERVOUS. THIS IS SORT OF NOT MY ARENA. BUT
17 MOSTLY I JUST WANTED TO BRIEFLY SAY THANK YOU.

WE

18 BELIEVE THE REGULATIONS THAT ARE SET FORWARD ARE
19 VERY FAIR. WE BELIEVE THE ISSUE IS VERY SIMPLE.
20 YOU CAN GET TO A VERY EXTENDED TECHNOLOGICAL
21 DEBATE, WHICH WE CAN, OF COURSE, GET INTO AS
WELL.

22 WE BELIEVE IT'S VERY SIMPLE.

23 IT'S AN ISSUE WHETHER THEY COMPLY

OR

24 NOT. ALL THE OTHER MANUFACTURERS HAVE HAD TO
25 COMPLY ALREADY. BY LAW THEY'VE ALREADY BEEN
GIVEN

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1 AN ADDITIONAL YEAR TO TRY TO RECONCILE THIS. THE
2 VAST MAJORITY OF WHAT IRONCLAD SELLS IN THE
3 MARKETPLACE IS UNREGULATED AND THEREFORE NOT
4 SUBJECT TO THIS. WE BELIEVE IT'S UNNECESSARY AS
5 AN EXEMPTION, AND WE BELIEVE IT'S UNFAIR TO
6 BUSINESS. AND WE'RE LOOKING FORWARD TO THE
7 HEARING. THANK YOU.

8 CHAIRMAN PENNINGTON: ANY QUESTIONS OF
9 MS. VOS? THANK YOU.

10 MR. LIVINGSTON: MR. CHAIRMAN, COULD I
11 JUST RESPOND TO THAT LAST COMMENT?

12 CHAIRMAN PENNINGTON: SURE.

13 MR. LIVINGSTON: GENE LIVINGSTON AGAIN.
14 I WOULD JUST LIKE THE RECORD TO REFLECT THAT THE
15 LAST STATEMENT ABOUT THE MAJORITY OF THE BAGS THAT
16 IRONCLAD SELLS ARE UNREGULATED IS JUST PATENTLY
17 FALSE, AND MS. VOS WAS TOLD THAT LAST WEEK, THAT
18 THAT'S NOT ACCURATE. AND SHE HAS NO BASIS FOR
19 REALLY KNOWING THAT. WE'RE THE SOLE PROPRIETOR OF
20 OUR SALES DATA, AND I CAN ASSURE YOU THAT THAT'S
21 JUST NOT AN ACCURATE STATEMENT.

22 CHAIRMAN PENNINGTON: OKAY. THANK YOU.
23 OKAY.

24 BOARD MEMBER FRAZEE: MR. CHAIRMAN, JUST
25 A COUPLE OF THOUGHTS, IF I COULD. FIRST OF ALL, I

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1 THINK WE'RE FACED WITH A STATUTE THAT WAS AWKWARD
2 TO BEGIN WITH. LAWS ARE USUALLY NOT WRITTEN THIS
3 WAY IN THE MANNER THAT WOULD COVER -- IN A MANNER
4 THAT WOULD COVER ONLY ONE SPECIFIC COMPANY. WE'RE
5 FACED WITH DEALING WITH THAT AND IT'S NOT EASY.
6 WE HAVE TO DO THE BEST WE CAN, BUT I THINK WE HAVE
7 TO RECOGNIZE THAT THERE STILL MAY BE A FLAW
8 SOMEWHERE IN THE PROCESS.

9 OTHER THING I WANTED TO MENTION, AND
10 PERHAPS I'M THE LAST ONE TO EITHER COMMENT ON
11 LEGAL LANGUAGE OR SENTENCE STRUCTURE, BUT I'D LIKE
12 TO DO A LITTLE NIT-PICKING WITH STAFF, IF WE
13 COULD. IF YOU LOOK AT THE DRAFT REGULATIONS,
14 GOING DOWN THE BOTTOM OF THE FIRST PAGE, AND THE
15 HEADING IS TO PETITION THE BOARD FOR A VARIANCE,
16 THE PETITIONER MUST PROVIDE INFORMATION FOR THE
17 REGULATED TRASH BAGS PRODUCED DURING THE PREVIOUS
18 TWELVE MONTHS, INCLUDING BUT NOT LIMITED TO. IN
19 MY VIEW, ONE READS ALL RIGHT; TWO READS ALL
RIGHT;

20 THREE ALL RIGHT. WHEN YOU GET TO FOUR, THEN
THE
21 WHOLE CONTEXT SHIFTS ON THESE QUALIFICATIONS
AND
22 BEGINS IN BOTH FOUR AND FIVE TO JUMP OVER

INTO THE

23 AREA OF WHAT YOU MIGHT CONSIDER IN FILLING
OUT A

24 FORM AND USING THE WORD "YOU" AND WHY YOU
BELIEVE.

25 AND IT SEEMS TO ME THAT THOSE DO NOT FOLLOW A

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1 PROPER USE OF ENGLISH OR CONTEXT WITH THE
HEADING

2 THAT STARTS THIS PARTICULAR AREA.

3 AND IF YOU DEVELOP A LIST OF
4 INSTRUCTIONS ON HOW TO FILL OUT A FORM, THE
LINES

5 THAT SAY YOU SHOULD DO THIS AND YOU SHOULD DO
THAT

6 ARE GOOD INSTRUCTIONS, BUT TO PUT IN A
REGULATION

7 THOSE WORDS, I DON'T THINK, ARE APPROPRIATE.
AND

8 PERHAPS IT'S A BIT OF NIT-PICKING, BUT I
THINK

9 IT'S SOMETHING WE OUGHT TO LOOK AT.

10 CHAIRMAN PENNINGTON: OKAY.

11 BOARD MEMBER CHESBRO: MR. CHAIRMAN.

12 CHAIRMAN PENNINGTON: YES.

13 BOARD MEMBER CHESBRO: I BELIEVE
THAT THE

14 LEGISLATURE DID GIVE US THE AUTHORITY AND NOT
ONLY

15 THAT, BUT I THINK IN THE LANGUAGE INDICATED
THAT

16 WE CAN AND PERHAPS SHOULD UTILIZE A BROADER

17 CRITERIA THAN JUST THE ONE THAT HAS BEEN
SUGGESTED

18 BY IRONCLAD. IT SEEMS TO ME THAT THE STAFF
HAS

19 ATTEMPTED TO TAKE A STEP TOWARDS GREATER
FLEXI-

20 BILITY TO MEET SOME OF THE CONCERNS THAT HAVE
BEEN

21 RAISED BY IRONCLAD WITH THEIR PROPOSED
AMENDMENT.

22 AND SO MY SUGGESTION IS THAT WE ACCEPT THE
STAFF'S

23 RECOMMENDATION AND GO OUT FOR THE TWO-WEEK
24 ADDITIONAL COMMENT PERIOD AND PROCEED AS HAS
BEEN

25 RECOMMENDED.

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1 BOARD MEMBER RELIS: I'LL SECOND.

2 CHAIRMAN PENNINGTON: IT'S MOVED AND
3 SECONDED TO ADOPT THE STAFF RECOMMENDATION TO
4 SUBMIT THE REGS FOR A 15-DAY PERIOD.

5 BOARD MEMBER CHESBRO: WITH THE AMENDMENT
6 THAT THEY PROPOSED.

7 CHAIRMAN PENNINGTON: WITH THE AMENDMENT
8 THAT THEY POSED, SO IT'S BEEN MOVED AND SECONDED.
9 ANY COMMENTS ON THE MOTION?

10 BOARD MEMBER CHESBRO: I'D ALSO BE
11 WILLING TO INCLUDE THE CHANGES MR. FRAZEE
12 SUGGESTED.

13 BOARD MEMBER FRAZEE: IF I COULD, JUST
14 LIKE YOU TO HAVE A LOOK AT THE SENTENCE STRUCTURE
15 AND SEE IF THAT CAN'T BE CLEANED UP A LITTLE BIT.

16 BOARD MEMBER CHESBRO: I GUESS THE
17 DIRECTION OF THE MOTION, THEN, WOULD BE TO ASK
18 STAFF TO LOOK AT THAT LANGUAGE AND, IF LEGAL
19 AGREES WITH HIS COMMENT, MAKE A TECHNICAL
20 MODIFICATION THEN.

21 CHAIRMAN PENNINGTON: I WOULD -- I DON'T
22 KNOW THAT IT NEEDS TO BE A PART OF THE MOTION, BUT
23 I WOULD ASK THAT STAFF DO GET TOGETHER WITH THE
24 STAKEHOLDERS DURING THIS 15-DAY PERIOD AND SEE IF
25 THERE'S ANY ADJUSTMENT THAT WE OR ANY RESOLUTION

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1 TO SOME OF THESE DIFFICULTIES OR QUESTIONS.

2 WE HAVE A MOTION BEFORE US.

3 SECRETARY CALL THE ROLL.

4 BOARD MEMBER CHESBRO: WELL, LET ME ASK
5 ABOUT THAT LAST COMMENT. I SUPPOSE -- I MEAN I'M
6 ALWAYS FOR CONSENSUS IF WE CAN GET THE PARTIES TO
7 AGREE, BUT WE SHOULD ALSO UNDERSTAND THAT THAT
8 COULD TRIGGER ANOTHER ADDITIONAL COMMENT PERIOD.

9 CHAIRMAN PENNINGTON: IT COULD IF THEY
10 COME TO RESOLUTION.

11 BOARD MEMBER CHESBRO: SO I GUESS THE
12 POINT WOULD BE THAT IF THERE IS SOME SORT OF
13 CONSENSUS THAT'S AVAILABLE THAT HASN'T BEEN
14 THOUGHT OF THAT POPS UP, THEN IT'D BE WORTH THE
15 ADDITIONAL COMMENT PERIOD TO ACCOMMODATE A
16 CONSENSUS, I SUPPOSE.

17 BOARD MEMBER RELIS: WHAT WOULD BE THE
18 NATURE OF THE OUR ACTION TODAY? IF WE -- IF WE
19 CONCUR ON THIS TODAY WITH THE MOTION AND IT GOES
20 TO A DISCUSSION LATER AND THERE'S SOME CHANGE,
21 WHAT'S THE CONSEQUENCE OF THAT?

22 MS. TRGOVCICH: MAYBE IF I COULD JUST
23 CLARIFY. WHEN WE MOVE TO A SUBSEQUENT 15-DAY
24 COMMENT PERIOD, THE ELEMENTS OF THE REGULATIONS
25 THAT WILL BE OPEN TO COMMENT AT THAT TIME ARE THE

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1 SPECIFIC AREAS THAT WERE PROPOSED FOR CHANGE
2 DURING THAT 15-DAY COMMENT PERIOD. SO THE AREAS
3 THAT WILL BE UNDER DISCUSSION, THAT WILL BE OPEN
4 FOR DISCUSSION WILL BE THE SPECIFIC CHANGES THAT
5 YOU ARE APPROVING TODAY AND NOT ANY OTHER ELEMENT
6 OF THE REGULATORY PACKAGE.

7 CHAIRMAN PENNINGTON: TRUE, BUT THEY
8 COULD COME BACK TO US. IF THEY FIND THAT THERE IS
9 SOME COMMON GROUND WITHIN THAT 15-DAY PERIOD, THEY
10 COULD COME BACK AND ASK US TO RELOOK AT CERTAIN
11 ISSUES.

12 BOARD MEMBER CHESBRO: WE'RE NOT
13 CONFINED, I GUESS --

14 CHAIRMAN PENNINGTON: RIGHT. RIGHT. AND
15 ALL I'M SAYING IS I'D LIKE FOR THEM TO ENSURE THAT
16 THEY DO THAT. I HAVEN'T EVEN PUT IT AS PART OF
17 THE MOTION. SO IF THEY SEE IN THE NEXT 15 DAYS
18 THAT THEY ARE ABLE TO WORK OUT SOME OF THESE
19 ISSUES, THEN THEY CAN BRING IT BACK AND WE'LL DEAL
20 WITH IT AT THAT POINT. I THINK THE POLICY
21 COMMITTEE MEETS IN THE NEXT 15 DAYS, BUT ANYWAY.
22 OKAY. WE HAVE A MOTION. IT WAS SECONDED. ARE
23 YOU CLEAR ON THE MOTION?

24 THE SECRETARY: IS IT OPTION 3 WITH
25 THE --

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1 BOARD MEMBER CHESBRO: LET ME MAKE SURE I
2 KNOW WHAT OPTION 3 IS. WHAT PAGE ARE WE TALKING
3 ABOUT?

4 THE SECRETARY: 85.

5 BOARD MEMBER CHESBRO: OKAY.

6 CHAIRMAN PENNINGTON: OKAY?

7 BOARD MEMBER CHESBRO: OPTION 3 WITH THE
8 SPECIFICATION OF WHAT THAT CHANGE IS AND MR.
9 FRAZEE'S ISSUE.

10 CHAIRMAN PENNINGTON: WE HAVE A MOTION
11 AND IT'S BEEN SECONDED. WILL THE SECRETARY CALL
12 THE ROLL, PLEASE.

13 BOARD SECRETARY: BOARD MEMBER CHESBRO.

14 BOARD MEMBER CHESBRO: AYE.

15 BOARD SECRETARY: FRAZEE.

16 BOARD MEMBER FRAZEE: AYE.

17 BOARD SECRETARY: GOTCH.

18 BOARD MEMBER GOTCH: AYE.

19 BOARD SECRETARY: RELIS.

20 BOARD MEMBER RELIS: AYE.

21 BOARD SECRETARY: CHAIRMAN PENNINGTON.

22 CHAIRMAN PENNINGTON: AYE.

23 MOVING ON TO ITEM 29, CONSIDERATION
24 OF CONFIDENTIALITY DETERMINATION WITH REGARD TO
25 PUBLIC RECORDS REQUEST FOR PLASTIC TRASH BAGS

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1 ANNUAL CERTIFICATION AND CONSIDERATION OF
2 POSTPONEMENT OF CONFIDENTIALITY DETERMINATION
3 REGARDING PUBLIC RECORDS REQUEST FOR PLASTIC TRASH
4 BAG VARIANCE DOCUMENTATION.

5 MS. TRGOVCICH: THANK YOU. THAT WAS
6 EXCELLENTLY STATED.

7 THE MOTION COMING OUT OF COMMITTEE
8 ON THIS PARTICULAR ITEM PERTAINED, AS WE DESCRIBED
9 IN THE LAST ITEM, SPECIFICALLY TO THE PUBLIC
10 RECORDS ACT REQUEST REGARDING PRIOR YEAR
11 CERTIFICATIONS. THE CERTIFICATIONS WERE FOR
12 CALENDAR YEARS '93, '94, AND '95. THE COMMITTEE
13 MOVED TO ADOPT THE STAFF'S RECOMMENDATION.

14 WE HAVE TWO ITEMS TO BRING FORWARD
15 FOR YOUR CONSIDERATION AT THIS TIME. THE FIRST IS
16 THAT IN THE INTERVENING TIME PERIOD BETWEEN THE
17 COMMITTEE MEETING AND THE BOARD MEETING, WE HAVE
18 CONTINUED TO REVIEW, BECAUSE THIS IS SUCH AN
19 IMPORTANT, SENSITIVE AREA, THE FORMS, THE
20 CERTIFICATES, AND THE CONFIDENTIAL ASPECT OF THEM.
21 AND WE HAVE IDENTIFIED AN ADDITIONAL AREA THAT WE
22 WOULD LIKE TO INCLUDE AS AN ITEM TO PROTECT UNDER
23 THE MOTION THAT CAME OUT OF THE COMMITTEE MEETING
24 THIS MONTH. SO THAT'S THE FIRST ADDITIONAL ITEM
25 THAT WE WOULD LIKE TO COVER.

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1 STAFF WOULD LIKE TO REQUEST THAT THE
2 BOARD MODIFY THAT MOTION TO INCLUDE TWO ADDITIONAL
3 AREAS, WHICH JERRY WILL DESCRIBE FOR YOU IN A
4 MOMENT.

5 THE SECOND AREA IS THAT WE RECEIVED
6 A REVISED PUBLIC RECORDS REQUEST. THE PUBLIC
7 RECORDS REQUEST, AS YOU REMEMBER, IS WHAT
8 PRECIPITATED THIS ITEM COMING BEFORE YOU AND FOR A
9 BOARD DETERMINATION AROUND THE CONFIDENTIAL NATURE
10 OF THE INFORMATION BEING REQUESTED. WE RECEIVED A
11 REVISED PUBLIC RECORDS REQUEST. A COPY WAS
12 DELIVERED TO YOUR OFFICES, I BELIEVE, ON MONDAY OF
13 THIS WEEK. WE RECEIVED IT ON FRIDAY. AND WE WILL
14 BE PRESENTING INFORMATION AND STAFF RECOMMENDATION
15 AROUND THAT REQUEST AS WELL.

16 MR. HART: MR. CHAIRMAN, BOARD MEMBERS,
17 JERRY HART. WE'RE TODAY HERE TO CONSIDER THE
18 MARKET DEVELOPMENT COMMITTEE ADOPTION OF STAFF
19 RECOMMENDATION PURSUANT TO THE CONFIDENTIALITY
20 ISSUE OF A PUBLIC RECORDS REQUEST FOR '93, '94,
21 AND '95 CALENDAR YEAR MANUFACTURER'S
22 CERTIFICATIONS SUBMITTED BY IRONCLAD.

23 AT THE NOVEMBER 7TH MARKET
24 DEVELOPMENT COMMITTEE MEETING, COMMITTEE ADOPTED
25 STAFF RECOMMENDATION THAT WE PROTECT PARTICULAR

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1 SECTIONS OF THOSE ANNUAL CERTIFICATIONS WHICH, IN
2 ESSENCE, PROTECTED SALES DATA, CUSTOMER AND CLIENT
3 LISTS. THIS TYPE OF INFORMATION IS SPECIFICALLY
4 LISTED AS INFORMATION THAT THE BOARD SHOULD
5 CONSIDER CONFIDENTIAL AND TREAT AS SUCH IN THE
6 BOARD'S REGULATIONS ON CONFIDENTIALITY.

7 THE INDICATION WAS BROUGHT TO MY
8 ATTENTION THAT I MISSED A COUPLE SECTIONS OF THOSE
9 CERTIFICATIONS. THOSE CERTIFICATIONS -- OTHER
10 SECTION OF THE CERTIFICATIONS CONTAIN THAT SAME
11 INFORMATION OF CUSTOMER AND CLIENT LISTS, SO THE
12 REVISION IN THE STAFF RECOMMENDATION THAT WE WOULD
13 LIKE THE BOARD TO CONSIDER NOW READS AS FOLLOWS:

14 NO. 1 OF THE STAFF RECOMMENDATION
15 REMAINS THE SAME. THE SALES DATA IN SECTION B
16 WITH THE EXCEPTION OF LINES 25, 16, 25 OF THE '93
17 CERTIFICATION AND LINE 16 OF THE '94 AND '95
18 CERTIFICATIONS, WHICH IS THE ACTUAL PERCENTAGE OF
19 RECYCLED POSTCONSUMER MATERIAL USED BY THE
20 MANUFACTURER. WE MAINTAIN THAT THE PERCENTAGE
21 FIGURES ARE NOT CONFIDENTIAL AND, THEREFORE,
22 SHOULD BE RELEASED.

23 THE FIRST CHANGE OCCURS IN STAFF
24 RECOMMENDATION ITEM 2. WE'RE ON PAGE 94, I
SHOULD

25 ADD. STAFF RECOMMENDATION ITEM 2, THE CUSTOMER

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1 LIST CONTAINED IN SECTIONS C AND YOU'RE PROPOSING
2 ADDING SECTION D OF IRONCLAD'S 1993 TRASH BAG
3 MANUFACTURER'S CERTIFICATION. IF YOU WOULD TURN
4 TO PAGE 102 OF THE PACKET, 1993 TRASH BAG
5 MANUFACTURER'S CERTIFICATION, SECTION C IS THE
6 CUSTOMER INFORMATION, THE CUSTOMERS OF THE
7 REGULATED TRASH BAGS, CLEARLY CUSTOMER LIST.
8 SECTION D, WHICH I MISSED PREVIOUSLY, IS
9 IDENTIFICATION OF CUSTOMERS OF ANY POSTCONSUMER
10 MATERIAL THAT THE MANUFACTURER MAY HAVE PRODUCED
11 AND SOLD, CLEARLY A CLIENT LIST.

12 THE OTHER REVISION IN THE STAFF
13 RECOMMENDATION OF NO. 3 IS THE RPPCM SUPPLIER LIST
14 CONTAINED IN SECTIONS E. STAFF PROPOSES TO ALSO
15 ADD SECTION F OF IRONCLAD'S '94 CERTIFICATION AND
16 SECTION F OF IRONCLAD'S '95 CERTIFICATION.

17 SO WHAT WE'RE PROPOSING TO DO IS
18 PROTECT BOTH SECTIONS E AND F OF THE '94 AND '95.

19 IF YOU WILL TURN TO PAGE 107 OF THE
20 PACKET AND THE ATTACHMENTS OF THE '94
21 CERTIFICATION, AGAIN SECTION E IS THE CUSTOMERS TO
22 WHOM THE MANUFACTURER MAY HAVE SOLD RESIN IF THEY
23 PRODUCED RESIN. SECTION F IS THE SUPPLIERS OF
24 RESIN TO THAT BAG MANUFACTURER. AGAIN, WE THINK
25 PRETTY CLEARLY CUSTOMER CLIENT LISTS. THOSE

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1 SECTIONS E AND F ARE THE SAME IN THE '95
2 CERTIFICATION.

3 SO IN SUMMARY, WE'RE PROPOSING TO
4 ADD SECTION D TO BE PROTECTED, THE '93 BAG
5 MANUFACTURER'S CERTIFICATION, WHICH CONTAINS
6 CUSTOMER LISTS, AND SECTION -- ADDING SECTION F
7 TO -- ADDING SECTION F TO THE '94 CERTIFICATION
8 AND SECTION E TO THE '95 CERTIFICATION. AGAIN,
9 CLIENT LISTS.

10 I APOLOGIZE FOR THE OVERSIGHT AND
11 HOPE THAT YOU WILL FIND THIS IN CONCERT WITH THE
12 BOARD'S REGULATIONS ON CONFIDENTIAL INFORMATION,
13 CUSTOMER AND CLIENT LISTS.

14 BOARD MEMBER FRAZEE: QUESTION. GOING
15 BACK TO THE ANSWER TO MY EARLIER QUESTION OF WHY
16 THIS WASN'T TAKEN CARE OF IN THE REGULATIONS, AND
17 THE EXPLANATION THAT THIS COVERS NOT THAT SUBJECT
18 BUT THE WHOLE CERTIFICATION, IF I'M FOLLOWING
19 CORRECTLY, THESE FORMS ARE FILLED OUT BY EVERY
20 PLASTIC BAG MANUFACTURER. THEN SHOULD WE NOT BE
21 PROTECTING THE CONFIDENTIALITY OF EVERY
22 MANUFACTURER AND NOT JUST IRONCLAD? IF THAT'S THE
23 CASE, THEN WHY DO WE NEED TO ASK THE QUESTIONS ON
24 THE FORM IN THE FIRST PLACE?

25 MR. HART: I BELIEVE THAT WE'RE

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1 RESPONDING TO A PARTICULAR PUBLIC RECORDS REQUEST
2 FOR THIS PARTICULAR INFORMATION.

3 BOARD MEMBER FRAZEE: TO ME THAT'S NOT
4 GOOD POLICY. THE POLICY OUGHT TO APPLY TO
5 EVERYONE AND NOT TO A SINGLE COMPANY.

6 MS. TRGOVCICH: MR. FRAZEE, MAYBE TO HELP
7 ME UNDERSTAND YOUR POINT, IS WHAT YOU ARE ASKING
8 IS THAT IF THIS INFORMATION, AND JUST -- JERRY
9 JUST SUMMARIZED IT FOR YOU, SECTIONS C AND D OF
10 THE '93, E AND F OF THE '94 AND '95 SHOULD BE
11 PROTECTED FOR ALL MANUFACTURERS. IS THE QUESTION
12 YOU'RE ASKING WHY WE'RE ASKING FOR IT AT ALL IN
13 THE FORMS?

14 BOARD MEMBER FRAZEE: YEAH. WELL, OR
15 THIS SPECIFIC RECOMMENDATION DEALS ONLY WITH
16 PROTECTING IRONCLAD'S INFORMATION. SO WE'RE PUT
17 IN A POSITION, I BELIEVE, UNLESS I'M NOT
18 UNDERSTANDING THIS, THAT WE'RE SAYING WE'RE GOING
19 TO PROTECT IRONCLAD'S CUSTOMER LIST AND SUPPLIERS
20 LIST, BUT WE'RE NOT GOING TO PROTECT OTHER
21 MANUFACTURERS.

22 MS. TRGOVCICH: I BELIEVE THAT, AS JERRY
23 STATED, WE ARE RESPONDING TO A SPECIFIC PUBLIC
24 RECORDS ACT REQUEST, BUT WE WOULD VIEW THIS AS A
25 PRECEDENT FOR ANY OTHER REQUESTS THAT WOULD BE

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1 MADE OF THE BOARD.

2 BOARD MEMBER FRAZEE: MY POINT IS THAT I
3 DON'T THINK THAT'S GOOD POLICY JUST TO ADOPT OUR
4 POLICY BASED ON A REQUEST RATHER THAN ON THE
5 GENERAL BROAD SUBJECT WHETHER IT'S APPROPRIATE TO
6 DISCLOSE CONFIDENTIAL AND PROPRIETARY INFORMATION.

7 BOARD MEMBER RELIS: AS I UNDERSTAND IT,
8 LET ME JUST SEE IF MAYBE I'M CONFUSED TOO. ALL
9 THE MANUFACTURERS ARE REQUIRED TO FILL OUT THE
10 FORMS. THE FORMS ARE CONFIDENTIAL SUBJECT TO A
11 REQUEST. WHAT WE'VE RECEIVED IS A REQUEST. SO
12 NOW WE'RE TRYING TO FIGURE OUT HOW TO HANDLE THAT
13 REQUEST. BY HANDLING THIS ONE, THIS WOULD BE
14 PRECEDENT MAKING, PRESUMABLY, FOR OTHER REQUESTS
15 SHOULD THEY BE RECEIVED. IS THAT A CORRECT
16 UNDERSTANDING?

17 MR. HART: I BELIEVE THAT'S A CORRECT
18 UNDERSTANDING.

19 BOARD MEMBER RELIS: SO IT ISN'T THAT
20 WE'RE MAKING AN EXCEPTION FOR IRONCLAD BECAUSE ALL
21 PARTIES ARE FOLLOWING THIS. IT'S JUST THAT WE
22 HAVEN'T HAD A REQUEST.

23 MS. TOBIAS: CAN I POINT OUT IN YOUR
24 PACKET ON PAGE 95, SECTION 17042 DOES POINT OUT --
25 DOES KIND OF DISCUSS WHAT WE'RE DOING HERE TODAY

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1 IF I'M CLEAR ON WHERE WE'RE GOING. IT BASICALLY
2 SAYS REQUESTS FOR RECORDS WHICH ARE NOT EXEMPT
3 FROM DISCLOSURE BY STATE OR FEDERAL LAW AND WHICH
4 ARE DETERMINED IN THIS ARTICLE TO BE CONFIDENTIAL,
5 PROPRIETARY SHALL BE EVALUATED TO DETERMINE
6 WHETHER ON THE FACTS OF THE PARTICULAR CASE...

7 BOARD MEMBER RELIS: THAT'S WHERE WE'RE
8 AT, FACTS OF A PARTICULAR CASE.

9 MS. TOBIAS: I THINK THAT MS. TRGOVCICH
10 WAS CORRECT IN SAYING THAT THIS WOULD ACT AS A
11 PRECEDENT. YOU KNOW, A PRECEDENT IS SIMPLY THAT.
12 DOESN'T MEAN THAT YOU CAN'T DEVIATE THE NEXT TIME
13 IF THERE'S SOMETHING ELSE IN THAT PARTICULAR
14 SITUATION WHICH IS DIFFERENT. BUT AT THIS POINT
15 WE'RE RESPONDING TO SECTION 17042, WHICH STATES
16 THAT WE WILL DO IT ON A CASE-BY-CASE BASIS.

17 BOARD MEMBER FRAZEE: IF I WERE
18 REPRESENTING IRONCLAD AND THERE WAS THIS REQUEST
19 TO SEE THIS, I THINK MY FIRST REACTION WOULD BE,
20 "OKAY. I'M GOING TO FILE A PUBLIC RECORDS REQUEST
21 TO SEE EVERYONE ELSE'S INFORMATION. IF IT'S
22 APPROPRIATE TO RELEASE MINE, THEN LET'S RELEASE
23 EVERYONE'S," AND WE'D BE TO GROUND ZERO, AND WE
24 WE'D BE IN A POSITION OF LOOKING AT THIS POLICY AS
25 IT REGARDS EVERY OTHER MANUFACTURER.

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1 MS. TOBIAS: WELL, I THINK CARRIED OUT TO
2 THAT EXTREME, THAT'S PROBABLY TRUE. WHAT I'M
3 GOING FROM IS WHAT OUR REGS DO STATE, WHICH I
4 THINK WERE SET UP TO RESPOND TO PUBLIC RECORD
5 REQUESTS WHEN WE HAVE THAT INFORMATION.

6 BOARD MEMBER FRAZEE: I'LL ACCEPT THAT,
7 BUT I THINK IT'S A SUBJECT AREA, THAT MY EARLIER
8 STATEMENT, IF WE'RE GOING TO KEEP THIS INFORMATION
9 CONFIDENTIAL, YOU KNOW, WE NEED TO LOOK AT WHY WE
10 NEED TO ASK THOSE QUESTIONS TO BEGIN WITH, IF
11 THEY'RE REALLY USEFUL IN EVALUATING SOMETHING, ONE
12 THING OR ANOTHER.

13 MS. TOBIAS: I'LL ALSO POINT OUT THAT
14 THIS IS BASED ON THE STATUTORY SCHEME IN THIS TOO,
15 SO IT MAY BE BRINGING OUT A POINT THAT TRACKS ALL
16 THE WAY BACK TO A STATUTE AND MAYBE NEEDS TO BE
17 HANDLED LEGISLATIVELY.

18 CHAIRMAN PENNINGTON: OKAY. LET'S SEE.

19 MR. HART: EXCUSE ME, MR. CHAIRMAN, I'D
20 LIKE TO ADDRESS THE SECOND POINT THAT CAREN
21 BROUGHT UP REGARDING A REVISED PUBLIC RECORDS
22 REQUEST BY HUNTER RUIZ. AT THE MARKET

DEVELOPMENT

23 COMMITTEE MEETING, WE WERE CONSIDERING A REQUEST
24 FOR THE ANNUAL CERTIFICATIONS. THEREFORE, WE HAD
25 THIS RECOMMENDATION BY STAFF. AND AT THAT TIME

WE

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1 WERE NOTIFIED THAT WE WOULD THEN BE LOOKING AT A
2 REVISED REQUEST FOR INFORMATION.

3 WE'VE RECEIVED THAT LETTER THAT
4 CAREN REFERRED TO THAT WAS RECEIVED ON FRIDAY AND
5 PERHAPS YOU RECEIVED COPIES OF MONDAY. I THINK
6 PERHAPS WE WOULD GO THROUGH THE INFORMATION
7 THEY'RE REQUESTING AND GIVE OUR STAFF
8 RECOMMENDATION ON HOW TO RESPOND TO THAT REQUEST.

9 THE LETTER FROM HUNTER RUIZ
10 REQUESTS -- THE AMENDED REQUEST, PUBLIC RECORDS
11 REQUEST, RENEWS THEIR REQUEST FOR A COPY OF ANY
12 AND ALL CERTIFICATIONS OF NONCOMPLIANCE. WE DON'T
13 THINK THAT THAT'S A PROBLEM. CERTIFICATIONS OF
14 NONCOMPLIANCE FILED BY IRONCLAD. WE DON'T THINK
15 THAT THAT'S A PROBLEM.

16 THE SECOND ITEM HUNTER RUIZ REQUESTS
17 IS ALL COPIES OF THE ANNUAL CERTIFICATIONS FILED
18 CONSISTENT WITH THE MARKET DEVELOPMENT COMMITTEE'S
19 FINDINGS OF CONFIDENTIALITY AS OF NOVEMBER 7TH.
20 WE PROBABLY SHOULD ASK HUNTER RUIZ, DARLENE RUIZ,
21 TO COME UP AND SEE IF THEIR REQUEST FOR THIS
22 INFORMATION NOW WOULD BE CONSISTENT WITH OUR
23 REVISED STAFF RECOMMENDATION.

24 FINALLY, THE THIRD ITEM THAT THEY
25 REQUEST ARE THE NUMBER OF SUPPLIERS, THE STATE IN

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1 WHICH A SUPPLIER IS LOCATED, AND A DESCRIPTION OF
2 THE APPROXIMATE PRIOR USAGE OF THE PLASTIC
3 POSTCONSUMER MATERIAL, WHICH IS A STATUTORY
4 REQUIREMENT THAT MANUFACTURERS PROVIDE TO US ON
5 THE CERTIFICATIONS.

6 STAFF FEELS THAT THIS LAST REQUEST,
7 NUMBER OF SUPPLIERS, THE STATE, AND THE
8 IDENTIFICATION OF THE APPROXIMATE PRIOR USAGE,
9 WHAT THE POSTCONSUMER RESIN WAS MADE OUT OF, MILK
10 JUGS OR CLEANING BAGS OR STRETCH WRAP, WHATEVER,
11 FALLS INTO THE CATEGORY OF SUPPLIER INFORMATION.
12 OUR FEELING IS THAT WE'VE DECIDED, BASED ON THE
13 BOARD'S REGULATIONS, THAT SUPPLIER INFORMATION IS
14 CONFIDENTIAL AND SHOULD BE TREATED AS SUCH.

15 THEREFORE, WE FEEL THAT THIS THIRD
16 REQUEST IS ASKING FOR, IN ESSENCE, SUPPLIER
17 INFORMATION, ALBEIT NONSPECIFIC. HOWEVER, WE FEEL
18 THAT WITH BITS AND PIECES OF THE PICTURE, OF THE
19 SUPPLIER PICTURE OF A PARTICULAR MANUFACTURER
20 GATHERED FROM OTHER SOURCES AND A BIT AND A PIECE
21 HERE AND THERE REQUESTED FROM THE ANNUAL
22 CERTIFICATIONS, A COMPETITOR COULD CREATE A FAIRLY
23 REASONABLE PICTURE OF THE SUPPLIES OF RESIN TO
24 THAT MANUFACTURER. THEREFORE, STAFF FEELS THAT
25 THIS INFORMATION SHOULD BE PROTECTED AS

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1 CONFIDENTIAL AND NOT BE RELEASED.

2 CHAIRMAN PENNINGTON: OKAY. ANY
3 QUESTIONS OF THE STAFF?

4 NEXT WE HAVE DARLENE RUIZ AGAIN.

5 MS. RUIZ: GOOD MORNING AGAIN. JUST LIKE
6 THE RECORD TO REFLECT THAT I THINK IN THE STAFF'S
7 INTRODUCTION THEY DID DESCRIBE THIS AS A REQUEST
8 FROM IRONCLAD. THE PUBLIC RECORDS ACT REQUEST WAS
9 MADE BY HUNTER RUIZ ON BEHALF OF FIRST BRANDS.
10 AND IT'S IMPORTANT TO ALSO NOTE THAT FIRST BRANDS
11 ALSO FILES THESE CERTIFICATIONS, AND SO WE ARE
12 VERY SENSITIVE TO THOSE PORTIONS WHICH SHOULD BE
13 PROTECTED IN ORDER TO PREVENT ANTICOMPETITIVE USE
14 OF THAT INFORMATION, BUT WE HAVE MODIFIED OUR
15 REQUEST.

16 BY THE WAY, IN RESPONSE TO THE
17 STAFF'S OVERALL RECOMMENDATION TO INCLUDE
18 DIFFERENT SECTIONS AS IDENTIFIED, WE HAVE NO
19 VARIANCE WITH THAT. WE THINK IT'S CONSISTENT WITH
20 THE STAFF'S ORIGINAL RECOMMENDATION AT THE MARKET
21 DEVELOPMENT COMMITTEE. THEY'RE JUST MAKING MORE
22 SPECIFIC THEIR PROTECTION OF SUPPLIER AND CUSTOMER
23 LISTS, SO WE HAVE NO DIFFICULTY WITH THAT.

24 WHAT WE ARE SEEKING HERE AND URGE
25 THE BOARD TO PROVIDE US IS THAT WE WOULD LIKE TO

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1 HAVE KNOWLEDGE CONCERNING WHERE THESE PCR
2 MANUFACTURERS, WHETHER THEY'RE IN CALIFORNIA OR
3 OUT OF CALIFORNIA. CAN WE ISOLATE WHO THEY ARE BY
4 VIRTUE OF THAT? WE DON'T BELIEVE THAT YOU CAN.
5 WE TRIED TO LOOK AT OUR OWN LIST, OUR OWN
6 CERTIFICATIONS, AND CONCLUDED THAT YOU CANNOT GO
7 BACK JUST BY VIRTUE OF GIVING US THE STATE THAT
8 HAS BEEN REPORTED AND THE NUMBERS OF SUPPLIERS
9 THAT THEY REPORTED, THAT YOU CAN GO BACK AND
10 IDENTIFY WHO THEY ARE WITH ANY CERTAINTY
11 WHATSOEVER. YOU MAY SPECULATE CERTAINLY, BUT YOU
12 COULD NOT IDENTIFY, BASED ON OUR INFORMATION, WHO
13 THEY ARE SO THAT IT COULD BE USED IN SOME
14 ANTICOMPETITIVE FASHION.

15 BY THE WAY, THAT IS NOT THE PURPOSE
16 OF OUR REQUEST. WE ARE ATTEMPTING TO DO SOME
17 LEGITIMATE RESEARCH IN THIS MATTER THAT GOES TO
18 BIGGER PUBLIC POLICY ISSUES, AND WE BELIEVE THAT
19 THE BOARD'S OBLIGATION IS TO WEIGH THE PROTECTIONS
20 OF THE PUBLIC RECORD ACT REQUEST PROVISIONS,
21 GIVING PUBLIC ACCESS TO REASONABLE INFORMATION
22 AGAINST THE COMPETING VALUES OF CONFIDENTIALITY
23 AND TRADE SECRETS.

24 AND HERE WHERE WE'RE SIMPLY ASKING
25 FOR VERY NARROW INFORMATION ON THE STATE AND THE

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1 PREVIOUS USE OF THE PCR, WE DON'T BELIEVE YOU CAN
2 GO BACK AND IN ANY WAY VIOLATE SOMEONE'S TRADE
3 SECRETS OR CUSTOMER LISTS OR SUPPLIER LISTS, AND
4 THAT IS NOT THE PURPOSE. IF IT WERE ABLE TO BE
5 DONE, IT WOULD CERTAINLY BE DONE TO US AS WELL,
6 AND SO WE WOULD NOT BE SEEKING SOMETHING THAT WE
7 WOULD SUSPICION SOME OTHER COMPETITOR MIGHT WANT
8 TO COME BACK AND TRY AND RECONSTRUCT. WE DON'T
9 THINK THAT'S POSSIBLE.

10 AGAIN, WE URGE THAT IN YOUR WEIGHING
11 OF THE NEED FOR THE PUBLIC TO KNOW, THAT YOU
12 PROVIDE US THIS VERY LIMITED INFORMATION AND THAT
13 WE OTHERWISE SUPPORT STAFF'S RECOMMENDATION,
14 SEEKING TO IDENTIFY VERY SPECIFICALLY THOSE
15 PORTIONS OF THE FORM WHICH ARE TO BE PROTECTED.

16 CHAIRMAN PENNINGTON: OKAY. ANY
17 QUESTIONS?

18 BOARD MEMBER RELIS: NOW, WE'VE HEARD
19 STAFF'S EXPLANATION AND NOW WE'VE HEARD THE
20 ASSERTION THAT YOU CAN'T REALLY PUT THE PIECES
21 TOGETHER TO CREATE AN UNDERSTANDING. I'D JUST BE
22 INTERESTED IF STAFF HAD ANY FURTHER RESPONSE TO
23 WHAT MS. RUIZ IS SUGGESTING HERE.

24 MR. HART: WELL, I THINK IT DEPENDS UPON
25 THE PARTICULAR INFORMATION THAT IS PARTICULAR TO

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1 EACH COMPANY. IF A LARGER COMPANY, THAT
2 INFORMATION WAS PROVIDED REGARDING A LARGER
3 COMPANY, IT WOULD BE FAR MORE DIFFICULT TO CREATE
4 A PICTURE. ASSUMING THAT THAT LARGER COMPANY
5 WOULD HAVE MULTIPLE FACILITIES AROUND THE COUNTRY,
6 THEY WOULD HAVE MANY MORE SUPPLIERS OF RESIN. THE
7 STATES MIGHT BE SPREAD OUT ALL OVER THE PLACE.
8 MAYBE A COUPLE, ONE PERHAPS FROM EACH STATE.
9 THEREFORE, YEAH, IT WOULD BE PRETTY DIFFICULT TO
10 PUT TOGETHER ANY PARTICULAR, YOU KNOW, FEELING FOR
11 WHAT THEY WERE DOING AND WHO THEIR SPECIFIC
12 SUPPLIERS WERE. NOT TERRIBLY DIFFICULT, I WOULD
13 HAVE TO ADD, BUT CERTAINLY MORE DIFFICULT.

14 ON THE OTHER HAND, FOR THE SMALLEST
15 MANUFACTURERS WHO MAY AND CERTAINLY DO HAVE VERY
16 FEW NUMBERS OF SUPPLIERS, ONE, TWO, THREE, AND
17 THEY MAY ALL RESIDE IN ONE PARTICULAR STATE, I
18 WOULD HAZARD THAT A VERY CLEAR DESCRIPTION OF
19 WHERE THEY WERE GETTING THEIR MATERIAL AND THOSE
20 COMPANY NAMES COULD BE PUT TOGETHER. I THINK IT
21 KIND OF DEPENDS ON THE PARTICULAR COMPANY.

22 BUT I REALLY DO THINK THAT THAT
23 INFORMATION IS POTENTIALLY VERY SENSITIVE. AND,
24 AGAIN, BY GATHERING A BIT OF INFORMATION HERE AND
25 THERE AND USING A STATE MANDATED CERTIFICATION

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1 PROGRAM TO PICK OUT A FEW MORE PIECES OF
2 INFORMATION, THAT COULD PROVIDE A VERY HARMFUL
3 PICTURE TO COMPETITORS.

4 MS. RUIZ: IF I MAY, JUST ON THE ONE
5 POINT, IF IT WERE A SMALLER ONE AS IN THE EXAMPLE
6 CITED AND THERE WERE ONLY THREE OR FOUR WITHIN THE
7 SAME STATE, I THINK IT WOULD EVEN BECOME MORE
8 DIFFICULT, ASSUMING THERE WERE MORE THAN THREE OR
9 FOUR SUPPLIERS IN THAT STATE. WE WOULDN'T BE ABLE
10 TO IDENTIFY THOSE SUPPLIERS SPECIFICALLY. AND I
11 THINK THAT WHATEVER INFORMATION WE MAY BE ABLE TO
12 OBTAIN ELSEWHERE, THAT AGAIN IS NOT THE PURPOSE OF
13 THE SEARCH, AND IT IS NOT IN ANY WAY THAT WE'VE
14 BEEN ABLE TO DETERMINE, MR. CHAIRMAN, COULD YOU
15 IDENTIFY IT FROM OUR LIST, SO WE'RE SUPPOSING THAT
16 WE CAN'T IDENTIFY IT FROM OTHERS AND HAVE FOUND NO
17 BASIS FOR THAT.

18 CHAIRMAN PENNINGTON: OKAY. ANY OTHER
19 QUESTIONS?

20 BOARD MEMBER FRAZEE: IF I COULD, MS.
21 RUIZ. THE PURPOSE FOR YOUR REQUEST IS SOLELY TO
22 DETERMINE COMPLIANCE BY A COMPETITOR?

23 MS. RUIZ: NO, NOT NECESSARILY. THAT --
24 WHAT WE'RE TRYING TO LOOK TO IS THE IN- AND
25 OUT-OF-STATE NATURE OF THE PCR MARKET. AND THAT

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1 YOUR CERTIFICATIONS PROVIDE US WHETHER OR NOT THAT
2 PCR IS BEING GENERATED HERE IN CALIFORNIA OR SOLD
3 HERE IN CALIFORNIA ACTUALLY OR IS COMING FROM OUT
4 OF STATE.

5 BOARD MEMBER FRAZEE: BUT DOESN'T THAT
6 HAVE TO DO WITH COMPLIANCE VERSUS THE COMPETITIVE
7 EDGE?

8 MS. RUIZ: YES, IT DOES, BUT ONLY TO THE
9 DEGREE THAT IT'S AN INFORMATION CONTAINED IN THOSE
10 BROAD PARAGRAPH FORMS IDENTIFIED BY STAFF, THAT
11 THE SUPPLIER LISTS THE STATE IN THEIR ADDRESS AS
12 TO WHERE IT IS COMING FROM. THEY LIST AN ENTIRE
13 ADDRESS AND THE NAME OF A PERSON OR AN INDIVIDUAL
14 AND THEN THEY LIST THE STATE.

15 BOARD MEMBER FRAZEE: IF YOUR REQUESTS
16 WERE HONORED AND WE WERE NOT GOING THROUGH THIS
17 EXERCISE RIGHT NOW AND YOU OBTAINED THAT
18 INFORMATION, THE RESULT OF OBTAINING THAT
19 INFORMATION WOULD BE TO SAY, "AHA. THEY DIDN'T
20 COMPLY."

21 MS. RUIZ: NO. THAT ISN'T THE PURPOSE.

22 BOARD MEMBER FRAZEE: IT'S EITHER THAT
OR
23 IT'S FOR A COMPETITIVE ADVANTAGE.

24 MS. RUIZ: NO, NOT NECESSARILY.

WHETHER

25 THEY'RE IN COMPLIANCE OR NOT, I COULD NOT

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1 ASCERTAIN SHORT OF THEIR DECLARATION OR
2 CERTIFICATION THAT THEY WERE IN COMPLIANCE. AND
3 THAT PART, I BELIEVE, THEY CONCEDED WE CAN GET.

4 THE ANTICOMPETITIVE NATURE, I HAVE
5 TO HAVE VOLUMES AND NAMES, IDENTIFICATION OF THE
6 ACTUAL SUPPLIERS OR BE ABLE TO TRACE BACK TO THOSE
7 VOLUMES AND THE NAMES BY VIRTUE OF THE INFORMATION
8 I'M REQUESTING. WE ARE NOT ASKING FOR THAT. WE
9 ARE ONLY TRYING TO IDENTIFY THE STATE, WHETHER
10 IT'S IN CALIFORNIA OR OUT OF CALIFORNIA.

11 BOARD MEMBER RELIS: JUST FOLLOWING UP ON
12 WHAT MR. FRAZEE SAID, YOU'RE NOT ENGAGED IN BASIC
13 RESEARCH. YOU'RE INVOLVED WITH RESEARCH FOR A
14 PURPOSE, RIGHT?

15 MS. RUIZ: WELL, THE RESEARCH GOES TO A
16 BIGGER PUBLIC POLICY ISSUE. IT DOESN'T
17 NECESSARILY ADDRESS JUST IRONCLAD. RIGHT NOW, AS
18 ADEQUATELY STATED BY COUNSEL, THIS SETS A
19 PRECEDENT.

20 BOARD MEMBER RELIS: AND WHAT'S THE
21 PRECEDENT AGAIN?

22 MS. RUIZ: WELL, WHETHER OR NOT WE CAN
23 OBTAIN WHETHER THE PCR SOURCE IS IN STATE OR OUT
24 OF STATE.

25 BOARD MEMBER FRAZEE: AND ONCE YOU LEARN

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1 THAT, WHAT DOES THAT DO FOR YOU? I GUESS THAT'S
2 WHERE I'M HAVING A PROBLEM.

3 MS. RUIZ: WE'RE ATTEMPTING TO DETERMINE
4 HOW MUCH OF IT IS ACTUALLY COMING AND MEETING THE
5 STATE POLICIES FOR PUBLIC DIVERSION IN CALIFORNIA
6 AND SUPPORT OF CALIFORNIA --

7 BOARD MEMBER FRAZEE: SO THAT'S THE
8 COMPLIANCE SIDE OF IT THAT I SUGGESTED.

9 MS. RUIZ: NO. IT GOES TO EVEN BROADER
10 ISSUES TIED TO LEGISLATION LAST YEAR AND POTENTIAL
11 LEGISLATION IN THE FUTURE.

12 MS. TOBIAS: MR. CHAIR, FOR PURPOSES
13 OF -- MR. PENNINGTON, FOR PURPOSES OF THE RECORD,
14 SINCE YOU ARE TRYING TO DETERMINE ON A CASE-BY-
15 CASE BASIS, YOU MAY WANT TO HAVE IRONCLAD PUT
16 THEIR INTEREST ON THE RECORD AS WELL SINCE WHAT
17 YOU'RE DOING HERE AGAIN IS BALANCING WHAT THE
HARM
18 AND WHAT THE BENEFIT IS IN TERMS OF RELEASING
THAT
19 INFORMATION.

20 CHAIRMAN PENNINGTON: THAT WAS -- MY
NEXT

21 SPEAKER IS GENE LIVINGSTON WITH IRONCLAD.

22 MR. LIVINGSTON: MR. CHAIRMAN, MEMBERS

OF

23 THE BOARD, MY NAME IS GENE LIVINGSTON

REPRESENTING

24 IRONCLAD. FIRST, WITH RESPECT TO THE STAFF'S

25 RECOMMENDATION ON THE EARLIER PUBLIC RECORDS ACT

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1 REQUEST, WE SUPPORT THAT RECOMMENDATION AND
2 APPRECIATE THE STAFF'S BRINGING TO YOUR ATTENTION
3 THE CLARIFICATION AND THE ADDITION OF THOSE
4 ADDITIONAL SUBSECTIONS OF THE COMPLIANCE FORM.
5 AND SO WE'D URGE YOU TO APPROVE THAT PORTION OF
6 THE MOTION.

7 WITH RESPECT TO THIS SO-CALLED
8 AMENDED REQUEST FOR PUBLIC RECORDS ACT, IT SEEMS
9 TO ME TWO THINGS ABOUT THAT. I DON'T THINK
10 THERE'S ANY SUCH THING AS AN AMENDED PUBLIC
11 RECORDS ACT REQUEST. THIS IS ESSENTIALLY A NEW
12 REQUEST. I THINK WE'VE GOT TO GO BACK AT THE
13 BEGINNING AND START ALL OVER, AND YOU HAVE A
14 REGULATION THAT SETS OUT A PROCESS FOR THAT.

15 AND THIS DOCUMENT WAS GIVEN TO US
16 LAST NIGHT. IT'S THE FIRST TIME WE'VE SEEN IT
17 AND
18 REALLY HAVE HAD NO OPPORTUNITY TO LOOK AT WHAT'S
19 INVOLVED, PARTICULARLY WITH RESPECT TO THE FIRST
20 ISSUE.

21 WITH RESPECT TO THE PARTS OF THIS
22 REQUEST THAT ARE THE SAME AS WHAT YOU ALREADY
23 HAVE
24 BEFORE YOU, I HAVE NO TROUBLE WITH YOU MAKING A
25 DECISION ON THAT. BUT TO THE EXTENT THAT IT

24 REQUESTS NEW INFORMATION, DIFFERENT KIND OF
25 INFORMATION, IT SEEMS TO ME THAT WE OUGHT TO
START

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1 AT THE BEGINNING AND GO THROUGH THE -- THROUGH
2 YOUR REGULATORY PROCESS ON THAT.

3 IT'S INTERESTING MR. FRAZEE ASKED
4 AND MAKES VERY GOOD POINT WHEN HE SUGGESTED THAT
5 IF HE WERE REPRESENTING IRONCLAD, HE WOULD ASK FOR
6 EVERYBODY ELSE'S INFORMATION. MY CLIENT TURNED TO
7 ME AND SAID, "WELL, WHY DIDN'T YOU THINK OF THAT?"
8 THEN HE PURSUES THE POINT ABOUT WHY IS THIS BEING
9 REQUESTED.

10 WE'RE TOLD THAT THE INFORMATION
11 ABOUT THE SOURCE OF OUR PCR IS BEING REQUESTED AS
12 PART OF A RESEARCH PROJECT, BROAD PUBLIC PURPOSES.
13 IT'S INTERESTING THAT THE REQUEST IS MADE OF ONLY
14 IRONCLAD, AND WE HAVE SLIGHTLY MORE THAN ONE
15 PERCENT OF THE MARKET AND CONSEQUENTLY PROBABLY
16 BUY NO MORE THAN -- A LITTLE MORE THAN ONE PERCENT
17 OF THE PCR, SO IT LOOKS LIKE IT'S A FAIRLY NARROW
18 RESEARCH PROJECT AT THIS POINT.

19 BUT CERTAINLY I WOULD LIKE TO
20 SUPPORT STAFF'S RECOMMENDATION WITH RESPECT TO
21 THAT INFORMATION NOT BE MADE AVAILABLE IF YOU
22 DECIDE TO DEAL WITH IT NOW ALTHOUGH MY NOTION IS
23 IS THAT YOU OUGHT TO GO BACK AND START AT THE
24 BEGINNING WITH YOUR REGULATORY PROCESS. I'M NOT
25 EVEN SURE WHAT'S INVOLVED IN THE CERTIFICATE OF

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1 NONCOMPLIANCE. I'VE NOT HAD A CHANCE TO LOOK AT
2 THAT FORM. LIKE I SAY, WE ONLY GOT THIS LAST
3 NIGHT. I DON'T KNOW WHAT INFORMATION IS THERE AND
4 REALLY HAVE NO WAY OF ADDRESSING THAT PARTICULAR
5 ISSUE AS TO WHETHER THAT SHOULD BE PROTECTED OR
6 NOT. SO I WOULD ASK YOU TO DEFER ANY ACTION ON
7 THIS SO-CALLED AMENDED PRA REQUEST AT THIS TIME.

8 CHAIRMAN PENNINGTON: OKAY. ANY
9 QUESTIONS OF MR. LIVINGSTON?

10 MR. HART: MR. CHAIRMAN, IF I MIGHT JUST
11 CHIRP IN ON THE REQUEST NO. 1 REGARDING THE
12 CERTIFICATION OF NONCOMPLIANCE, THERE IS NO SUCH
13 DOCUMENT. IRONCLAD DID NOT SUBMIT SUCH A
14 DOCUMENT, SO THAT SHOULDN'T BE A CONSIDERATION FOR
15 MAKING ANY DECISION. THERE ISN'T ANY SUCH
16 DOCUMENT.

17 MS. TOBIAS: ALSO, MR. CHAIR, I'D LIKE TO
18 INDICATE THAT I THINK AT THIS TIME WE DO NOT
19 CONSIDER THIS TO BE -- WE'RE CALLING IT AN AMENDED
20 PUBLIC RECORDS REQUEST BECAUSE AS THE PUBLIC
21 RECORDS REQUEST WAS FILED, THEY ASKED FOR CERTAIN
22 INFORMATION. WHEN THERE WAS A QUESTION BROUGHT UP
23 ABOUT WHETHER THAT INFORMATION WOULD BE RELEASED,
24 THE QUESTION WAS THEN IF YOU WON'T GIVE ME THIS,
25 THEN CAN I HAVE THAT? I DON'T REALLY CONSIDER

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1 THAT -- I THINK THIS IS ALL ONE REQUEST THAT WE'RE
2 DEALING WITH HERE. SO AS FAR AS PUTTING THIS OFF
3 AND HAVING IT GO BACK THROUGH THE PROCESS, I DON'T
4 THINK THAT'S REALLY APPROPRIATE UNLESS THERE'S
5 SOME OTHER INFORMATION THAT I'M NOT AWARE OF AT
6 THIS TIME.

7 BOARD MEMBER FRAZEE: UNDER THE PUBLIC
8 RECORDS ACT, WHAT ARE THE TIME REQUIREMENTS FOR
9 RESPONDING TO A PUBLIC RECORDS?

10 MS. TOBIAS: TEN DAYS. WHAT WE CAN
DO IS

11 IF THERE'S A PROBLEM COMPLYING WITH THAT TEN
DAYS,

12 THEN YOU NOTIFY THE ENTITY THAT'S MADE THE
13 REQUEST, THAT WE'RE DOING OUR BEST TO COMPLY
WITH

14 THAT, TRY TO GIVE THEM SOME INDICATION OF
WHEN YOU

15 WILL RELEASE THAT INFORMATION OR PROVIDE
THAT

16 INFORMATION.

17 BOARD MEMBER FRAZEE: SO IN
ADOPTING A

18 POLICY, TIME IS OF THE ESSENCE?

19 MS. TOBIAS: I'M SORRY. SAY THAT

AGAIN.

20 BOARD MEMBER FRAZEE: IN ADOPTING A
21 POLICY ON THIS, THE TIME IS IMPORTANT?

22 MS. TOBIAS: I'M NOT SURE WHERE WE
ARE IN
23 THE PROCESS.

24 BOARD MEMBER FRAZEE: WELL, WITHOUT
--
25 LACKING TAKING ACTION ON THIS, THEN THAT'S A
VALID

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1 REQUEST THAT WE MUST HONOR WITHIN TEN DAYS?

2 MS. BORZELLERI: MR. FRAZEE, I JUST
3 WANTED TO CLARIFY. THE INITIAL REQUEST MUST BE
4 RESPONDED TO IN TEN DAYS. WE HAVE MET THAT
5 REQUIREMENT BY TELLING THE REQUESTER THAT WE WERE
6 GOING TO BRING IT FORWARD TO THE BOARD. I BELIEVE
7 THAT'S WHAT OCCURRED ANYWAY. WE'VE DELAYED IT AND
8 MADE IT SUBJECT TO THE BOARD'S DETERMINATION.

9 ONE OTHER ISSUE THAT'S IMPORTANT IS
10 THAT ONCE THE BOARD DOES MAKE THIS DETERMINATION,
11 THE REGULATIONS ALLOW FOR AN ADDITIONAL, I BELIEVE
12 IT'S, EITHER 15 OR 30 DAYS -- I NEED TO VERIFY
13 THAT IN REGULATION -- WHERE WE NOTIFY THE PERSON
14 WHOSE INFORMATION WILL BE RELEASED, AND THEY CAN
15 COME BACK AND SUPPLY ADDITIONAL INFORMATION IF
16 THEY WISH TO WITHIN, I BELIEVE IT'S, A 30-DAY
17 PERIOD, AND THEN THE BOARD COULD HEAR THAT AGAIN.
18 SO THE PROCESS ALLOWS FOR THE GIVE AND TAKE ONCE
19 THE DECISION IS MADE.

20 BOARD MEMBER FRAZEE: SO THE TEN-DAY
21 PERIOD IS ONLY THE RESPONSE TO THE REQUEST. IT'S
22 NOT TURNING OVER THE INFORMATION?

23 MS. BORZELLERI: CORRECT. IF WE'RE GOING
24 TO TURN OVER THE INFORMATION, WE SHOULD GIVE IT
25 WITHIN TEN DAYS, BUT WE MADE THE RESPONSE WITHIN

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1 TEN DAYS, TELLING THEM THAT WE CONSIDER IT
2 CONFIDENTIAL OR THE BOARD NEEDS TO DETERMINE THAT
3 IT'S CONFIDENTIAL.

4 CHAIRMAN PENNINGTON: OKAY.

5 BOARD MEMBER FRAZEE: WE READY FOR THE
6 ITEM?

7 CHAIRMAN PENNINGTON: I'M READY FOR A
8 MOTION.

9 BOARD MEMBER FRAZEE: I THINK STAFF NEEDS
10 TO HELP US WITH THIS MOTION, BUT THE STAFF
11 RECOMMENDATION. LET ME START AGAIN. I WOULD MOVE
12 THE STAFF RECOMMENDATION ON THIS ITEM AS OUTLINED
13 IN ITEM 5, 1, 2, AND 3, AND THAT'S FURTHER
14 IDENTIFIED AS PAGE 94. THERE'S ALSO A
15 MODIFICATION OF THAT THAT WE DON'T HAVE IN WRITTEN
16 FORM.

17 MS. TRGOVCICH: I COULD JUST READ IT INTO
18 THE RECORD IF YOU WOULD LIKE. ITEM 2 WILL BE
19 REVISED TO READ THE "CUSTOMER LIST CONTAINED IN
20 SECTION C AND D OF IRONCLAD'S 1993 TRASH BAG
21 MANUFACTURER'S CERTIFICATION." ITEM 3 WOULD READ
22 "THE RPPCM SUPPLIER LIST CONTAINED IN SECTION E --
23 SECTIONS E AND F OF IRONCLAD'S 1994 AND 1995 TRASH
24 BAG MANUFACTURER'S CERTIFICATION."

25 BOARD MEMBER FRAZEE: THAT IS MY MOTION.

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1 BOARD MEMBER RELIS: SECOND THE MOTION.

2 CHAIRMAN PENNINGTON: IT'S BEEN MOVED AND
3 SECONDED. FURTHER DISCUSSION ON THE MOTION? IF
4 NOT, WILL THE SECRETARY CALL THE ROLL.

5 BOARD SECRETARY: BOARD MEMBER CHESBRO.

6 BOARD MEMBER CHESBRO: AYE.

7 BOARD SECRETARY: FRAZEE.

8 BOARD MEMBER FRAZEE: AYE.

9 BOARD SECRETARY: GOTCH.

10 BOARD MEMBER GOTCH: AYE.

11 BOARD SECRETARY: RELIS.

12 BOARD MEMBER RELIS: AYE.

13 BOARD SECRETARY: CHAIRMAN PENNINGTON.

14 CHAIRMAN PENNINGTON: AYE. MOTION

15 CARRIES.

16 I SEE IT'S TIME TO BREAK, SO WE WILL
17 RECESS FOR LUNCH. BACK AT 1:30. OKAY. RECESS
18 FOR LUNCH. BE BACK AT 1:30.

19 (RECESS TAKEN.)

20 CHAIRMAN PENNINGTON: GOOD AFTERNOON.

21 AND WE'LL CALL BACK TO ORDER THE NOVEMBER MEETING
22 OF THE CALIFORNIA INTEGRATED WASTE MANAGEMENT
23 BOARD. FIRST, LET ME ASK IF ANYBODY HAS ANY EX
24 PARTES THEY NEED TO DO.

25 BOARD MEMBER CHESBRO: YES. I HAD A

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1 CONVERSATION WITH MR. TAKALLOU WITH REGARDS TO THE
2 TIRE ALLOCATION.

3 BOARD MEMBER RELIS: THE WORD "MESQUITE"
4 UTTERED OUT OF JOHN CUPPS' MOUTH, SO I WILL REPORT
5 IT AS AN EX PARTE.

6 CHAIRMAN PENNINGTON: BOY, IF WE HAVE TO
7 REPORT EVERY CONVERSATION WITH OUR WIVES, WE'RE IN
8 DEEP TROUBLE, ALL EXCEPT MRS. GOTCH.

9 BOARD MEMBER GOTCH: I DON'T HAVE A WIFE.

10 CHAIRMAN PENNINGTON: OKAY. LET'S SEE.
11 WHERE DID WE LEAVE OFF? I THINK 31, RIGHT?
12 MOVING RIGHT ALONG THEN. CONSIDERATION OF THE
13 TIRE PROGRAM PRIORITIES AND FUNDING ALLOCATIONS.
14 DOROTHY RICE AND CAREN TRGOVCICH.

15 MS. RICE: THANK YOU, MR. CHAIRMAN AND
16 BOARD MEMBERS. DOROTHY RICE, DEPUTY DIRECTOR OF
17 PERMITTING AND ENFORCEMENT DIVISION. I'LL BE
18 PRESENTING THIS ITEM JOINTLY WITH CAREN TRGOVCICH,
19 DEPUTY DIRECTOR WASTE PREVENTION AND MARKET
20 DEVELOPMENT DIVISION.

21 THIS ITEM IS CONSIDERATION OF TIRE
22 PROGRAM FUNDING ALLOCATIONS. I THOUGHT I WOULD
23 JUST VERY BRIEFLY REPEAT THE RECOMMENDATIONS THAT
24 HAVE COME OUT OF PRIOR COMMITTEE MEETINGS JUST AS
25 SETTING SOME CONTEXT FOR US THIS AFTERNOON. AS

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1 YOU KNOW, THE POLICY COMMITTEE HAS MET
2 CONSECUTIVELY IN SEPTEMBER, OCTOBER, AND NOVEMBER
3 TO DISCUSS ASPECTS OF THIS ITEM THAT IS AGAIN
4 BEFORE THE FULL BOARD TODAY.

5 IN SEPTEMBER THE COMMITTEE DISCUSSED
6 INPUT FROM THE SEPTEMBER WORKSHOP ON THESE ISSUES
7 AND IN OCTOBER ADOPTED A NUMBER OF RECOMMENDA-
8 TIONS, WHICH ARE LISTED ON PAGES 116 AND 117 OF
9 YOUR PACKETS. THESE RECOMMENDATIONS INCLUDE
10 ADOPTION OF A LONG-TERM POLICY STATEMENT AND
11 OBJECTIVES FOR THE TIRE PROGRAM, WHICH YOU CAN
12 FIND ON PAGE 117 OF YOUR PACKET, ALSO A
13 RECOMMENDATION THAT A TIRE ADVISORY COMMITTEE BE
14 ESTABLISHED WAS RECOMMENDED BY THE COMMITTEE IN
15 OCTOBER, AND A NUMBER OF FUNDING ALLOCATION
16 RECOMMENDATIONS WERE MADE. THE CHART DISPLAYING
17 THOSE RECOMMENDATIONS FROM THE OCTOBER POLICY
18 COMMITTEE MEETING CAN BE FOUND ON PAGE 118 OF
19 THE MATERIALS IN YOUR PACKETS.

20 THEN, AGAIN, IN NOVEMBER THE
21 COMMITTEE MET A FEW WEEKS AGO TO FURTHER DISCUSS
22 AND REFINE THE RECOMMENDATIONS THAT HAVE BEEN
23 DEVELOPED INITIALLY AT THE OCTOBER MEETING. AT
24 THE NOVEMBER COMMITTEE MEETING THE COMMITTEE
25 RECOMMENDED A FEW ADDITIONAL ITEMS, ONE

REGARDING

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1 LEGISLATIVE OPTIONS RELATED TO THE TIRE PROGRAM
2 ELEMENTS, THAT A DISCUSSION OF THESE BE REFERRED
3 TO THE LEGISLATION AND PUBLIC EDUCATION COMMITTEE
4 FOR DISCUSSION, I BELIEVE, IN DECEMBER, AND THAT
5 WOULD EXCLUDE THOSE ASPECTS OF TIRE LEGISLATION
6 THAT HAVE ALREADY BEEN DETERMINED BY THE BOARD
7 THROUGH OTHER PROCESSES.

8 BOARD MEMBER GOTCH: IF I MAY, MR. CHAIR,
9 I WANT TO CLARIFY THE LEGISLATION PROPOSALS THAT I
10 HAD BROUGHT UP IN COMMITTEE, AND THAT WAS AFTER
11 DISCUSSIONS WITH STAFF. I'M FINE WITH ALLOWING
12 THE NORMAL LEGISLATIVE PROCESS TO PROCEED. AS I
13 UNDERSTAND THAT, WHAT THAT MEANS IS THAT WE'LL
14 WAIT FOR THE REQUISITE ADMINISTRATION APPROVAL OF
15 THE BOARD'S LEGISLATIVE PROPOSALS, AND THEY DON'T
16 NEED TO COME TO LPAC PRIOR TO APPROVAL.

17 HOWEVER, I WOULD LIKE TO ASK STAFF
18 TO FORMALLY RELAY TO ME AS SOON AS POSSIBLE WHAT
19 LEGISLATIVE PROPOSALS THE ADMINISTRATION HAS
20 APPROVED OR DENIED.

21 MS. RICE: CERTAINLY. THANK YOU.

22 THE SECOND ITEM THAT THE COMMITTEE
23 MADE A RECOMMENDATION ON AT THE OCTOBER MEETING
24 WAS THAT -- RATHER NOVEMBER -- THAT THE PROPERTY
25 OWNER REIMBURSEMENT ISSUE BE FURTHER DEVELOPED BY

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1 THE LEGAL OFFICE AND BROUGHT BACK TO THE POLICY
2 COMMITTEE IN JANUARY, AS MAY BE APPROPRIATE, BASED
3 ON ADDITIONAL RESEARCH DONE.

4 AND THIRDLY, TIRE PROGRAM FUNDING
5 ALLOCATIONS WERE MODIFIED AS SHOWN IN THE TABLE ON
6 PAGE 120 AND I BELIEVE AS CAREN HAS PUT UP ON THE
7 MONITOR. AND IF THE BOARD MEMBERS WOULD LIKE, WE
8 COULD VERY BRIEFLY RUN THROUGH WHAT THOSE WERE.

9 CHAIRMAN PENNINGTON: WHAT'S YOUR WISH?
10 DO YOU WANT TO GO THROUGH THESE, OR SHOULD WE NOT?
11 I KNOW WE HAVE SOME CHANGES. I THINK WE HAVE,
12 DON'T WE?

13 BOARD MEMBER RELIS: LET'S GO TO THE
14 HEART OF THE MATTER.

15 CHAIRMAN PENNINGTON: CAN WE GET RIGHT TO
16 THE HEART OF THE MATTER?

17 MS. RICE: OKAY. THANK YOU.

18 CHAIRMAN PENNINGTON: I'LL START IT OFF
19 BY PUTTING FORWARD A MOTION TO ADOPT -- I'LL TRY
20 TO GO SLOW SO EVERYBODY CAN KEEP UP WITH WHAT I'M
21 TRYING TO DO HERE.

22 THEN I'LL MOVE THAT WE ADOPT THE
23 COMMITTEE'S RECOMMENDATION ON THE POLICY STATEMENT
24 AND OBJECTIVES REGARDING WASTE TIRES. THIS IS THE
25 LANGUAGE THAT'S ON PAGE 117. THE ADOPTION OF NO.

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1 5, THE COMMITTEE RECOMMENDATION TO UTILIZE AN AD
2 HOC ADVISORY COMMITTEE TO ADVISE THE BOARD ON TIRE
3 PROGRAMS AND FUNDING, I WOULD STRIKE THAT, SO WE
4 DELETE THAT. THE FOLLOWING ALLOCATIONS OF FUNDS:
5 PILOT LEA GRANT PROGRAM, 200,000; HIGHWAY PATROL
6 INTERAGENCY AGREEMENT, A HUNDRED THOUSAND;
7 DEPARTMENT OF MOTOR VEHICLES INTERAGENCY
8 AGREEMENT, 15,000;

9 STATE CLEANUP CONTRACTS, 750 TO 1.5
10 MILLION; 750 IS THE MINIMUM; THE 1.5 IS THE
11 MAXIMUM. THIS ALLOWS THE BOARD TO AUGMENT THE 750
12 WITH UNALLOCATED FUNDS IN THE FUTURE WITHOUT
13 ADDITIONAL BIDDING PROCESSES. STAFF WILL DEVELOP
14 A REQUEST FOR QUALIFICATIONS TO DEVELOP A BIDDER
15 LIST FOR EXPENDITURES OF THESE FUNDS. SO THAT'S
16 REALLY 750 AT THIS POINT.

17 LOCAL GOVERNMENT CLEANUP MATCHING
18 GRANTS, 250,000. THESE GRANTS WILL BE 50-50
19 MATCHING GRANTS.

20 FIRE MARSHAL INTERAGENCY AGREEMENT,
21 A HUNDRED THOUSAND.

22 STATEWIDE CENTER FOR RUBBERIZED
23 ASPHALT, 500,000. THE CENTER WILL BE FOR
24 TECHNOLOGY TRANSFER, TECHNICAL ASSISTANCE,
25 TRAINING, INFORMATION DISSEMINATION BETWEEN
LOCAL

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1 GOVERNMENTS.

2 FINANCIAL SERVICES, AGAIN, THE
3 MINIMUM WOULD BE 50,000, IS AUTHORIZED TO BE
4 ENCUMBERED NOW. THE 75 IS A CAP TO ALLOW
5 AUGMENTATION IN THE FUTURE, IF NECESSARY, AND
6 FUNDS ARE AVAILABLE. COAL AND COGENERATION
7 TESTING, 200,000; CEMENT KILN INFORMATION
8 DISSEMINATION, 50,000.

9 BOARD MEMBER CHESBRO: I'D LIKE TO
10 INTERRUPT, MR. CHAIRMAN, AND SAY I'M GLAD THAT
11 SOMEBODY FINALLY STOPPED REPRODUCING THAT TYPO
12 THAT SAID CEMENT KILT. I DON'T KNOW HOW MANY
13 TIMES I'VE SEEN THAT, AND IT FINALLY GOT SPELLED
14 K-I-L-N.

15 CHAIRMAN PENNINGTON: THEY WERE ACTUALLY
16 TRYING TO SKIRT THE ISSUE. I JUST WANTED TO SEE
17 IF YOU ALL WERE AWAKE.

18 LOCAL GOVERNMENT SCHOOL DISTRICT
19 PLAYGROUND MATS, 250,000. THESE ARE MATCHING
20 GRANTS OF 70 PERCENT LOCAL FUNDS, 30 PERCENT BOARD
21 FUNDS. THESE GRANTS ARE AVAILABLE TO THE LOCAL
22 GOVERNMENT, SUBDIVISIONS OF LOCAL GOVERNMENT,
23 INCLUDING SCHOOL DISTRICTS, FOR THE USE OF
24 RECYCLED RUBBER IN PLAYGROUND RECONSTRUCTION.
25 A PRUDENT RESERVE OF 500,000.

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1 SPECIFIED RECOMMENDATIONS FOR EXPENDITURES OF
2 FUNDS WILL BE PRESENTED THROUGH THE POLICY
3 COMMITTEE AND BOARD APPROVEMENT AS NECESSARY.

4 LOCAL GOVERNMENT RUBBERIZED ASPHALT
5 MATCHING GRANTS, 200,000. THESE MATCHING GRANTS
6 ARE TO BE 70 LOCAL, 30 BOARD.

7 RMDZ LOAN FOR TIRE RECYCLING,
8 230,000.

9 THIS IS 3,395,000. AND IF THERE'S
10 ANY OTHER ADJUSTMENT, WHICH I THINK THERE'S
11 ACTUALLY \$500 OFF THAT CAN COME OUT OF THE RMDZ
12 LOAN LINE.

13 BOARD MEMBER RELIS: ARE YOU DONE? I'LL
14 SECOND THAT.

15 CHAIRMAN PENNINGTON: SO...

16 BOARD MEMBER CHESBRO: MR. CHAIRMAN,
17 THERE'S SEVERAL ISSUES. I HAVE A COUPLE AND I
18 KNOW MRS. GOTCH HAS ONE. FIRST OF ALL, I WANTED
19 TO KIND OF SUMMARIZE. I APPRECIATE THE FACT THAT
20 THERE'S BEEN A MOVEMENT TOWARDS INCLUDING THE
21 RECYCLED RUBBERIZED ASPHALT DEMONSTRATION PROJECTS
22 FOR LOCAL GOVERNMENTS, AND I WANTED TO PROVIDE A
23 FEW MORE SPECIFICS THAT WE CAN PERHAPS PUT INTO
24 THE MOTION TO CLARIFY WHAT THE INTENT WAS.

25 BEFORE I DO THAT THOUGH, LET ME
SAY

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1 THAT WHAT I HAD IN MIND WAS TO HELP CORRECT A
2 SIMILAR PROBLEM THAT WE RECENTLY CORRECTED BY
3 FUNDING ADDITIONAL COMPOST DEMONSTRATION PROJECTS
4 WHERE WE WERE DOING A GREAT JOB IN SOME PARTS OF
5 THE STATE AND OTHER IMPORTANT PARTS WERE
6 ESSENTIALLY NOT KEEPING UP BECAUSE WE HADN'T
7 ALLOCATED MONEY, SO WE ADDED ANOTHER THREE COMPOST
8 PROJECTS TO THE FIVE THAT WE HAD ALREADY DONE.

9 AND MY RATIONALE IN SUGGESTING THIS
10 IS THAT WE HAVE IN THIS PROPOSAL, BEFORE YOU
11 INCLUDED THIS, A PRETTY HEAVY FOCUS ON SOUTHERN
12 CALIFORNIA EVEN THOUGH I KNOW IT'S DESCRIBED AS A
13 STATEWIDE CENTER, BUT GEOGRAPHICALLY, LIKE THE
14 COMPOST PROJECTS, I FEEL THAT THERE'S A LOT MORE
15 CREDIBILITY, GOVERNMENT OFFICIALS SHOWING OTHER
16 GOVERNMENT OFFICIALS IN A REGIONAL WAY, JUST LIKE
17 THE FARMERS SHOWING THE FARMERS IN THEIR AREA,
18 RATHER THAN HAVING SO MUCH OF THE ACTIVITY IN
19 SOUTHERN CALIFORNIA, WHICH HAS HAPPENED TO DATE.

20 I AM IN SUPPORT OF FUNDING THE
21 SOUTHERN CALIFORNIA CENTER, BUT I THINK THAT WE
22 NEED TO PROVIDE SOME COUNTERBALANCE TO MAKE SURE
23 THAT ALL OF THE ACTIVITY DOESN'T TAKE PLACE IN
24 L.A. AND ORANGE COUNTIES BECAUSE THAT'S WHERE
25 THERE'S A LOT OF GOOD WORK TO THEIR CREDIT TAKING

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1 PLACE.

2 SO I WOULD SUGGEST THAT WE
3 PRIORITIZE THE AREAS OF THE STATE THAT HAVE A
4 LOWER LEVEL OF RAC USE TO DATE FOR USE OF THOSE
5 FUNDS.

6 SECONDLY, I'M STILL HOPEFUL THAT WE
7 CAN FIND A WAY TO -- AND THIS DISCUSSION WILL
8 ENSUE -- BUT WE CAN FIND A WAY TO FUND AT A
9 \$250,000 LEVEL AS OPPOSED TO A \$200,000 LEVEL. I
10 ALSO THINK THAT IT SHOULD BE INTERAGENCY
11 AGREEMENTS RATHER THAN A COMPETITIVE PROCESS
12 BECAUSE I THINK OUR STAFF AND THE COMMITTEE SHOULD
13 PLAY A ROLE IN TRYING TO DETERMINE WHAT AREAS OF
14 THE STATE THOSE ARE AND PRIORITIZE THE AREAS THAT
15 SEEM TO NEED THE MOST HELP IN TERMS OF SOME
16 DEMONSTRATION PROJECTS.

17 I ALSO WOULD SPECIFY A RATIO OF
18 50-50 MATCHING FUNDS, ALTHOUGH I'M WILLING TO
19 CONSIDER OTHER RATIOS. I KNOW THAT THERE WERE
20 OTHER THOUGHTS ABOUT WHAT THOSE SHOULD BE. I
21 THINK THAT THE MAXIMUM PER PROJECT SHOULD BE
22 \$50,000. AND IN ADDITION TO THAT, IT WOULD BE --
23 INSTEAD OF JUST DOING DEMONSTRATION PROJECTS
24 COMPLETELY INDEPENDENT OF THE SOUTHERN CALIFORNIA
25 CENTER, I THINK WE SHOULD BE TRYING TO HELP THESE

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1 SELECTED JURISDICTIONS TO DO APPLICATIONS OF
2 RUBBERIZED ASPHALT, BUT IN CONJUNCTION WITH THE
3 SOUTHERN CALIFORNIA CENTER.

4 SO I THINK ONE OF THE REQUIREMENTS
5 OF THE PROJECT AND PERHAPS EVEN A SMALL USE OF
6 SOME OF THE FUNDS WOULD BE FOR THEM TO GO DOWN AND
7 TAKE ADVANTAGE OF THE TECHNICAL ASSISTANCE THAT'S
8 BEING PROVIDED SO THAT THESE PROJECTS ARE
9 COORDINATED AND IT'S NOT COMPLETELY CONSIDERED AN
10 INDEPENDENT ACTIVITY FROM WHAT THE BOARD'S
11 INTENTIONS ARE WITH THE SOUTHERN CALIFORNIA
12 CENTER.

13 THOSE ARE BASICALLY THE PARAMETERS
14 OR CLOSE TO THE PARAMETERS I'D LIKE TO SEE
15 INCORPORATED INTO THE MOTION. AND I GUESS I'LL
16 SEE WHAT KIND OF RESPONSE THERE IS TO THAT, AND
17 THEN I'LL MOVE ON TO ANOTHER ISSUE.

18 CHAIRMAN PENNINGTON: OKAY. WHAT YOU'D
19 LIKE TO DO IS ADD ANOTHER 50,000 TO THE RUBBERIZED
20 ASPHALT DEMONSTRATION PROJECT MATCHING GRANTS.

21 BOARD MEMBER CHESBRO: RIGHT.

22 CHAIRMAN PENNINGTON: WHERE WOULD YOU
23 PROPOSE TO GET THAT 50,000?

24 BOARD MEMBER CHESBRO: WELL, THAT LEADS
25 ME INTO MY NEXT LINE -- ACTUALLY IT WAS A LINE OF

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1 QUESTIONING HAD TO DO WITH THE SO-CALLED PRUDENT
2 RESERVE AND WHAT, FIRST OF ALL, WHAT THE MAGIC WAS
3 ABOUT THE PARTICULAR NUMBER THAT'S ASSIGNED THERE
4 TO THAT.

5 AND SECONDLY, TO HAVE SOME IDEA OF
6 THE RANGE OF THE POSSIBILITIES THAT THAT IS
7 INTENDED FOR. I KNOW I'VE HEARD SOME THINGS
8 THROWN AROUND, BUT IT WOULD BE GOOD TO HAVE ON THE
9 RECORD, I THINK, SOME DISCUSSION HERE ABOUT WHAT
10 IT WOULD BE USED FOR. SO I GUESS TO ANSWER YOUR
11 QUESTION MORE DIRECTLY, I THINK THAT'S ONE
12 POSSIBLE SOURCE.

13 AND THERE -- RATHER THAN TAKING ALL
14 OF THE 50,000 FROM ANY ONE -- ADDITIONAL 50,000
15 FROM ANY ONE SOURCE, I GUESS I WOULD SUGGEST THAT
16 IT BE SMALL AMOUNTS TAKEN FROM DIFFERENT OTHER
17 ACCOUNTS IN ORDER TO MINIMIZE THE IMPACTS ON THE
18 PRIORITIES THAT THE COMMITTEE'S ALREADY SET. IT
19 COULD GO TWO WAYS OR THREE WAYS IN TERMS OF OTHER
20 PROJECTS, SUCH AS THE COAL PROJECT COMES TO MIND,
21 THE SOUTHERN CALIFORNIA PROJECT COMES TO MIND. IF
22 WE TOOK 20 OR 25,000 AWAY FROM THE SOUTHERN
23 CALIFORNIA PROJECT, I DON'T THINK IT WOULD BE A
24 SEVERE HIT. SO I THINK THERE'S SEVERAL OTHER WAYS
25 TO TRY TO GET THAT UP TO 50.

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1 BUT BACK TO MY QUESTION, MY QUESTION
2 HAS TO DO WITH WHAT THE -- HOW THE 500,000 RESERVE
3 WAS SET AND WHAT IT'S INTENDED POTENTIAL USES ARE.

4 CHAIRMAN PENNINGTON: YOU KNOW, I MORE OR
5 LESS SET THAT FIGURE, AND I DID BASED UPON THE
6 FACT THAT IN THE LAST YEAR WE'VE HAD TWO MAJOR
7 TIRE FIRES IN THE STATE, ONE OF THEM THAT WE HAD
8 TO MOBILIZE PEOPLE AND EQUIPMENT. IT WAS
9 SERIOUSLY DAMAGING OR COULD SERIOUSLY HAVE DAMAGED
10 THE POWER SUPPLY TO SOUTHERN CALIFORNIA AND COST
11 ABOUT A MILLION DOLLARS A DAY LOSS IF WE HAD NOT
12 BEEN ABLE TO MOVE IN THERE QUICKLY AND DO
13 SOMETHING TO ALLEVIATE THE PROBLEM.

14 WE WERE CERTAINLY HELPED BY THE
15 FEDERAL GOVERNMENT, BUT WE WERE LOOKED AT FOR
16 FUNDS, AND WE WERE LOOKED AT FOR AN OBLIGATION
17 THERE.

18 WE ALSO HAD A FIRE IN BAKERSFIELD
19 NOT TOO LONG AGO. AND AGAIN, WE WERE LOOKED TO
20 FOR FUNDING. AND I THINK THAT STAFF CAN
TELL YOU

21 MORE IN TERMS OF WHAT ALL OF THAT COST WAS.

22 THERE ARE SEVERAL OTHER LARGE
TIRE

23 PILES AROUND THE STATE THAT ARE OF GREAT

CONCERN;

24 AND, OF COURSE, THE MAJOR ONE IS THE OXFORD

TIRE

25 PILE, AND I'M CONCERNED ABOUT THE FACT THAT
THAT'S

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1 LOCATED CLOSE TO A SOUTHERN CALIFORNIA WATER
2 SUPPLY. IT'S CLOSE TO THE MAJOR NORTH/SOUTH
3 HIGHWAY. IT'S LOCATED IN A FLIGHT PATH INTO SAN
4 FRANCISCO INTERNATIONAL. AND YOU GET THAT KIND OF
5 HEAVY SMOKE GOING UP THERE, THAT IT COULD AFFECT
6 THAT.

7 SO I THINK WE HAVE TO BE AS
8 CONCERNED, AND OUR OBLIGATION IS TO BE CONCERNED
9 ABOUT THE ENVIRONMENT AND HEALTH AND SAFETY OF THE
10 PEOPLE, SO I FELT THAT WE NEEDED TO HAVE AT LEAST
11 ENOUGH FUNDING AVAILABLE TO MOVE QUICKLY IN CASE
12 THAT THERE WAS SOME SITUATION THAT OCCURRED
13 THROUGHOUT THE STATE.

14 ALSO, THAT THERE ARE SOME
15 DISCUSSIONS GOING ON BETWEEN US AND OTHERS, MELP
16 AND OXFORD PEOPLE, THAT WE MAY TURN TO A FUND
17 SOURCE TO HELP ALLEVIATE THAT PROBLEM AND TO WORK
18 IN THAT. SO I WANT TO BE AS FLEXIBLE AS POSSIBLE,
19 BUT I WANT TO HAVE ENOUGH MONEY IN OUR POCKET TO
20 DO IT. WE ALSO KNOW THAT WE'RE FACING A DEFICIT
21 OF OUR OWN ACROSS THE BOARD. AND IF WE DON'T SET
22 ASIDE SOME MONEY TO TAKE CARE OF AN EMERGENCY
23 SITUATION OR TO HELP ALLEVIATE THESE LEGACY PILES,
24 THEN I THINK WE'RE NOT LIVING UP TO OUR
25 RESPONSIBILITY TO PROTECT THE HEALTH AND SAFETY OF

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1 THE CITIZENS OF CALIFORNIA.

2 SO THAT'S WHY I CAME TO THAT FIGURE
3 AND A FIGURE THAT I THINK IS NOT EXCESSIVE, BUT IS
4 PRUDENT AND, AS I'VE SAID, WE GET TO, YOU KNOW,
5 APRIL OR MAY AND WE HAVEN'T USED IT, THEN WE CAN
6 COME BACK AND REVISIT WHERE WE MAY FEEL THAT WE
7 NEED TO PUT ADDITIONAL FUNDING INTO OTHER
8 CATEGORIES THAT WE DECIDE ON TODAY.

9 BOARD MEMBER GOTCH: MR. CHAIR, FIRST OF
10 ALL, I'D LIKE TO ADDRESS THE COMMENTS THAT YOU
11 JUST MADE. WHILE I AGREE WITH WHAT YOU ARE SAYING
12 IN SOME RESPECTS, WE HAVE LINE ITEMS ABOVE FOR
13 EMERGENCIES SUCH AS YOU SPOKE OF AND FINANCIAL
14 ASSURANCES FOR THAT REASON. THE AMOUNT THAT WE
15 HAVE FOR THE PRUDENT RESERVE IS ARBITRARY, AND WE
16 WILL HAVE MORE MONEY NEXT YEAR THAT WE CAN ADD TO
17 THAT.

18 CHAIRMAN PENNINGTON: THAT DOESN'T DO
19 ANYTHING FOR US BETWEEN NOW AND NEXT JULY. WE
20 NEED TO BE ABLE TO -- WE DON'T NEED TO LOCK
21 OURSELVES IN TO A POINT WHERE WE CAN'T DO ANYTHING
22 BETWEEN NOW AND NEXT JULY WAITING FOR THE NEXT
23 PAYCHECK. YOU KNOW, WE -- WHEN WE GET THERE AND
24 WE'RE ALMOST GOING TO HAVE THE NEXT PAYCHECK, THEN
25 WE CAN SPREAD THIS OUT, BUT WE NEED TO BE IN A

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1 POSITION TO REACT.

2 I DON'T KNOW WHERE -- FINANCIAL
3 ASSURANCES, EVERY ONE OF THESE TIRE PILES, EVERY
4 ONE OF THESE THINGS THAT WE COME TO, IT'S SOMEBODY
5 WHO IS BANKRUPT AND WE'RE NOT GETTING ANY MONEY
6 OFF OF THEM. WE DON'T HAVE ANY PROPERTY WE CAN
7 LIEN. I DON'T THINK WE'VE LIENED A PIECE OF
8 PROPERTY IN THE TIRE PILE THAT WE'VE CLEANED UP.
9 SO I DON'T KNOW WHERE THIS MONEY IS.

10 BOARD MEMBER GOTCH: IF I MAY, I'D LIKE
11 TO GO AHEAD WITH SOME ADDITIONS THAT I'D LIKE TO
12 MAKE ON THIS. AND THAT IS WITH THE PLAYGROUND
13 MATCHING GRANTS. I WOULD LIKE TO TAKE 50,000 OUT
14 OF THE PRUDENT RESERVE, WHICH I FEEL THAT WE DO
15 ADDRESS IN OUR LINE ITEMS ABOVE FOR EMERGENCIES,
16 AND ADD THAT TO MAKE A TOTAL OF 300,000 AS WHAT
17 WAS AGREED UPON EARLIER IN COMMITTEE.

18 ALSO, I'D LIKE THE MATCHING PROPOSAL
19 TO BE 50-50. IT WILL -- 70-30 IS TOO PROHIBITIVE,
20 AND 50-50 MATCH WILL BRING MORE PEOPLE TO THE
21 TABLE. I THINK ALSO IT WILL ASSIST RURAL
22 JURISDICTIONS THAT CAN'T QUITE AFFORD TO GET INTO
23 THE PROGRAM UNLESS WE CAN GIVE THEM A 50-50 MATCH.

24 AND, FINALLY, I'D LIKE A SUFFICIENT
25 UPPER BOUND ON THIS ITEM IN CASE THERE IS MONEY

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1 LEFT OVER THAT CAN BE USED TO FUND ADDITIONAL
2 PLAYGROUND SITES.

3 AND, FINALLY, I'D LIKE TO ADDRESS
4 THE LETTER THAT WE HAD RECEIVED FROM MR.
5 HARRINGTON ON THIS. I BELIEVE WE ALL RECEIVED
6 THIS. HE HAD BROUGHT UP SEVERAL SUGGESTIONS
7 INCLUDING SCHOOLS THAT ARE ACCREDITED BY THE STATE
8 OF CALIFORNIA ARE ELIGIBLE TO APPLY FOR GRANT
9 FUNDING. ACTUALLY I GUESS I'D LIKE TO ASK IF
10 STAFF HAS ANY RESPONSE TO ANY OF THESE REQUESTS,
11 IF YOU'VE HAD A CHANCE TO LOOK AT THIS LETTER.

12 MS. TRGOVCICH: WE'VE NOT RECEIVED THE
13 LETTER.

14 BOARD MEMBER GOTCH: I'LL GIVE YOU MY
15 COPY OF THIS. IT'S ADDRESSED TO EVERYONE. IT'S
16 ADDRESSED TO EACH OF THE BOARD MEMBERS, SO I HAD
17 ASSUMED THAT EVERYONE ELSE HAD RECEIVED
A COPY. I

18 WOULD ASSUME, ALSO, THAT MR. HARRINGTON
IS

19 PROBABLY ON ONE OF THE SPEAKER SLIPS WE
HAVE AND

20 SOMETHING WE CAN TAKE UP. IS HE HERE?
THERE YOU

21 ARE. WE'LL GET COPIES OF THAT THEN.

22 CHAIRMAN PENNINGTON: YOU RAISE
THAT, AND
23 I DON'T THINK HE'S ON THIS LIST HERE.
SO I WOULD
24 SUGGEST THAT -- REMIND EVERYBODY, IF YOU
WANT TO
25 SPEAK, THERE'S SPEAKER SLIPS BACK THERE
THAT NEED

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1 TO BE FILLED OUT AND GIVEN TO MS. KELLY.

2 BOARD MEMBER GOTCH: AND THOSE
3 SUGGESTIONS CAN WAIT. I THINK I'VE MADE THE POINT
4 I WANTED TO MAKE THEN. THANK YOU.

5 CHAIRMAN PENNINGTON: LET ME JUST MAKE A
6 COMMENT ABOUT THE RUBBERIZED MATS, THAT WE'RE ONLY
7 LOOKING TO TAKE \$50,000 OUT OF THAT. AND OVER THE
8 LAST THREE FISCAL YEARS, WE'VE SPENT 261,000 ON
9 THIS ALREADY. NOW WE'RE TALKING UPWARDS OF OVER A
10 HALF A MILLION DOLLARS ON PLAYGROUND GRANTS, BUT
11 YET WE DON'T WANT TO PROTECT THE HEALTH AND SAFETY
12 BY HAVING A PRUDENT RESERVE.

13 I THINK THAT, YOU KNOW, WE SAID WE'D
14 TAKE 50,000 OUT AND WE'D LOOK AT PUTTING SOME IN
15 IF WE GOT THROUGH THE YEAR. THE ONLY REASON I
16 LIKE THE 70-30 OR I'D BE WILLING TO ADJUST THAT
17 AROUND A LITTLE BIT, BUT I'M TRYING TO SPREAD THE
18 MONEY AS FAR AS WE CAN. YOU KNOW, THE SCHOOL
19 DISTRICTS DO GET A LOT OF MONEY FROM A LOT OF
20 PLACES.

21 BOARD MEMBER GOTCH: ACTUALLY THE SCHOOL
22 DISTRICTS ARE HAVING A REALLY TOUGH TIME.

23 CHAIRMAN PENNINGTON: WELL, THE GOVERNOR
24 JUST GAVE THEM A WHOLE BUNCH MORE MONEY. WE'RE
25 NOT HERE TO RUN THE SCHOOL SYSTEMS.

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1 BOARD MEMBER GOTCH: THIS IS NOT JUST THE
2 SCHOOL SYSTEMS. THESE ARE LOCAL AND STATE PARKS.

3 CHAIRMAN PENNINGTON: LOCAL AND STATE
4 PARKS.

5 BOARD MEMBER GOTCH: ALL PLAYGROUNDS. I
6 THINK YOU RECEIVED A WHITE PAPER FROM ME ON THE
7 PROPOSAL THAT EXPLAINS HOW THIS IS TO BE USED.

8 BOARD MEMBER CHESBRO: I GUESS THE
9 QUESTION I WOULD ASK ABOUT PRUDENT RESERVE IS --
10 IS IF WE HAVE BACK BEFORE US IN, LET'S SAY, A
11 MONTH FROM NOW OR TWO MONTHS FROM NOW A SPECIFIC
12 PROPOSAL TO USE THIS MONEY SOMEHOW IN CONJUNCTION
13 WITH EITHER THE TIRE PILE OR THE POWER PLANT, IS
14 THE SAME ARGUMENT GOING TO STAND, THAT WE CAN'T
15 SPEND IT ON THAT BECAUSE WE HAVE TO BE PREPARED
16 TO
17 FIGHT A FIRE? ARE WE GOING TO SAY NO TO THAT
18 BECAUSE WE GOT TO HAVE 500,000 IN CASE THERE'S A
19 FIRE?

20 I HEAR SEVERAL DIFFERENT THINGS
21 BEING SAID ABOUT THIS MONEY THAT IT ABSOLUTELY
22 HAS
23 TO BE AVAILABLE FOR. I DON'T THINK WE'RE GOING
24 TO
25 BE ABLE TO DO ALL OF THEM IF, IN FACT, WE

23 ABSOLUTELY HAVE TO HAVE ALL OF IT FOR ONE
PURPOSE

24 AND WE ABSOLUTELY HAVE TO HAVE ALL OF IT FOR
25 ANOTHER PURPOSE. AND...

19 THE BOARD MEMBERS, THEN, IN COMMITTEE WE HAD
ALSO
20 TALKED ABOUT TRYING TO HAVE MORE OF A 50-50
BREAK
21 BETWEEN PERMITTING AND ENFORCEMENT AND
REMEDICATION
22 AND MARKET DEVELOPMENT. AND THESE ARE BOTH
MARKET
23 DEVELOPMENT ITEMS THAT WE'RE TALKING ABOUT. I'M
24 LOOKING AT THE PRUDENT RESERVE IS WHAT I'M
25 DISCUSSING.

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1 BOARD MEMBER FRAZEE: I JUST WANTED TO
2 JUMP INTO THIS DISCUSSION ON SEVERAL ITEMS. BUT
3 FIRST OF ALL, I THINK THERE'S A NEED TO GO BACK
4 AND LOOK AT OUR ENABLING ACT AS WE ALLOCATE FUNDS
5 OF THIS TYPE AND WHAT ARE WE CHARGED WITH DOING.
6 FIRST OF ALL, TO PROTECT THE PUBLIC HEALTH,
7 SAFETY, AND PROTECT THE ENVIRONMENT, AND THAT'S
8 SORT OF THE OVERRIDING GOAL. AND ALONG WITH THAT,
9 ALL THE OTHER WORTHWHILE GOALS OF REDUCING THE
10 WASTE STREAM RECYCLING MATERIALS.

11 AND WEIGHING THOSE IN CONTEXT OF
12 THAT, I HAVE SOME CONCERNS OVER BOTH THE ASPHALT
13 PAVING AND THE PLAYGROUND PROPOSALS. AND AT ONE
14 POINT, CERTAINLY LAST TIME THAT WE REVIEWED THIS
15 IN THE PREVIOUS CYCLE, I WAS TOTALLY SUPPORTIVE OF
16 THE CRUMB RUBBER USE IN ASPHALT AS BEING A
17 WORTHWHILE EFFORT BECAUSE I FELT THAT IT WAS
18 SOMETHING WE NEEDED TO DO TO DEMONSTRATE THAT IT
19 REALLY WORKS TO GET SOME TEST SECTIONS OUT AND SEE
20 IF EVERYTHING WORKS WELL BEFORE WE START SELLING
21 IT TO THE PUBLIC. SINCE THAT TIME, I'VE LEARNED A
22 LOT MORE ABOUT THE SUBJECT, AND I'VE FOUND IN THE
23 CASE OF LOS ANGELES COUNTY THAT THERE'S ALREADY A
24 THOUSAND LANE MILES OF CRUMB RUBBER ASPHALT OUT
25 THERE.

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1 THE AMOUNT OF DEMONSTRATION THAT
2 NEEDS TO BE DONE, I THINK, HAS BEEN ACCOMPLISHED.
3 SO THEN THAT GOES TO WHAT IS THE OTHER GOAL HERE,
4 AND THAT IS ARE WE IN THE BUSINESS OF JUST HELPING
5 OUT LOCAL GOVERNMENTS WITH A COST ISSUE. AND I
6 DON'T THINK THAT'S OUR ROLE IN EITHER ONE OF THESE
7 CASES, IN THE PLAYGROUNDS OR IN ASPHALT PAVING.

8 THEY'RE NICE THINGS TO DO, BUT I
9 THINK AT THIS POINT IN TIME THAT WE HAVE TO LOOK
10 AT THE PRACTICAL THINGS TO DO AND NOT THE NICE
11 THINGS TO DO AND ONES THAT ARE GOING TO GET US TO
12 RESOLVING THAT PROBLEM. THE BIG OVERRIDING
13 HEALTH, SAFETY, AND WELFARE ISSUE OUT THERE AT
14 THIS POINT ARE LEGACY TIRE PILES, AND THAT'S WHERE
15 I THINK OUR EMPHASIS HAS TO BE.

16 ANYTHING WE DO BEYOND THAT THAT
17 HELPS STIMULATE MARKETS IS CERTAINLY WORTHWHILE,
18 BUT I THINK WE NEED TO BE VERY CAREFUL WHERE WE'RE
19 REALLY DOING SOMETHING TO STIMULATE MARKETS OR ARE
20 WE JUST DOING SOMETHING TO BE NICE BECAUSE SCHOOLS
21 ARE SHORT OF MONEY AND NEED PLAYGROUNDS. I'D LIKE
22 TO BE ABLE TO BUY PLAYGROUND MATS FOR EVERY SCHOOL
23 IN CALIFORNIA, BUT THAT'S NOT OUR SPECIFIC ROLE.
24 OUR PURPOSE IN BUYING PLAYGROUND MATS, IT IS A
25 LEGITIMATE PURPOSE, IS TO DO DEMONSTRATIONS TO

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1 SHOW THAT IT CAN BE DONE, BUT ULTIMATELY TO
2 ENCOURAGE OTHER PEOPLE TO DO THAT. IT'S NOT OUR
3 ROLE TO BE IN THAT BUSINESS OF PROVIDING THAT.

4 I THINK WE'VE ALREADY TAKEN A NUMBER
5 OF STEPS IN PREVIOUS YEARS IN THAT REGARD. AND
6 THIS SPECIFIC ITEM, ANOTHER CONCERN, BECAUSE THE
7 WAY IT'S WRITTEN, IT'S LIMITED TO A PARTICULAR
8 TYPE OF MAT WHERE THERE ARE OTHER SOLUTIONS THAT
9 USE GROUND RUBBER ALSO, AS WELL AS MOLDED MATS.
10 AND THIS ONE WE'VE GENERALLY BEEN LOOKING AT
11 MOLDED MATS, BUT CRUMB RUBBER IS USED IN PLACE OF
12 SAND AND OTHER THINGS IN PLAYGROUNDS ALSO. SO I
13 THINK WE'RE BEING OVERLY RESTRICTIVE IN THAT
14 PARTICULAR AREA.

15 GOING BACK TO THE ASPHALT PAVING, I
16 THINK, YOU KNOW, IF YOU ARE GOING TO DO THAT ONE,
17 THE MATCHING GRANT AND THE PROPOSAL THAT MR.
18 CHESBRO HAS PRESENTED TO US IS, WHEREVER IT IS,

IS

19 A GOOD ONE. THE ONLY THING THAT I CONTINUE TO
20 HARP ON ON THAT ONE IS THAT ANY MONEY WE SPEND
21 IN
22 THAT AREA OUGHT TO BE LIMITED TO THE INCREMENTAL
23 COST OF CRUMB RUBBER PAVING OVER STANDARD
24 PAVING.

23 BOARD MEMBER CHESBRO: THAT'S A CONCEPT

I

24 STARTED WITH BECAUSE I GENERALLY AGREE WITH YOU,

25 THAT THE PURPOSE HERE IS TO DEMONSTRATE AND
CREATE

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1 ENOUGH INCENTIVE SO THERE'D BE SOME
2 DEMONSTRATIONS. THE PROBLEM, I GUESS, THAT I
3 UNDERSTAND THE ADVISORS HAD IN TALKING THIS OVER
4 AND TRYING TO PIN IT DOWN WAS THAT WE WERE GOING
5 TO GET INTO A DETAILED ANALYSIS IN EACH CASE ABOUT
6 TRYING TO FIGURE OUT WHAT THEIR ACTUAL INCREMENTAL
7 DIFFERENCE WAS, AND THERE SEEMED TO BE A SENSE
8 THAT TRYING TO FIGURE OUT -- THAT'S WHY I SAID
9 OPEN. 50-50 WOULD BE A VERY NICE INCENTIVE, BUT
10 I'M OPEN TO EXACTLY WHAT THE RATIO WOULD BE, BUT
11 THAT WE SET SOME SORT OF A FAIRLY STANDARD NUMBER,
12 TRY TO ESTIMATE WHAT THAT WOULD BE AND HAVE THAT
13 APPLY TO EVERYBODY INSTEAD OF TRYING TO ANALYZE
14 EACH INDIVIDUAL PROJECT TO FIGURE OUT WHAT THE
15 INCREMENT IS, YOU KNOW. DO YOU UNDERSTAND WHAT
16 I'M SAYING?

17 BOARD MEMBER FRAZEE: I THINK THE
18 APPLICANTS CAN PROVIDE THAT INFORMATION IN THEIR
19 APPLICATION.

20 BOARD MEMBER CHESBRO: WELL, THE THOUGHT
21 HERE WAS RATHER THAN HAVING IT BE A COMPETITIVE
22 APPLICATION FOR A SUBSIDY, LIKE WE'VE HAD IN THE
23 PAST, THAT WE HAVE MORE OF A CONSCIOUS BOARD AND
24 STAFF DRIVEN DECISION-MAKING PROCESS LIKE WITH
THE

25 COMPOST DEMONSTRATIONS, WHERE WE LOOK AROUND
ABOUT

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1 WHERE THE GAPS ARE IN THE STATE GEOGRAPHICALLY
2 THAT THERE'S A NEED FOR US TO BE FOR US TO HAVE
3 SOME PROJECTS.

4 BOARD MEMBER FRAZEE: BUT FOR
5 DEMONSTRATION PURPOSES ONLY.

6 BOARD MEMBER CHESBRO: RIGHT. RIGHT.
7 BUT NOT HAVE IT BE, YOU KNOW, 500 LOCAL
8 GOVERNMENTS APPLYING FOR FOUR PROJECTS AND TRYING
9 TO SORT THROUGH ALL THOSE APPLICATIONS AND COMPARE
10 THEM, RATHER TO TRY TO PROACTIVELY IN ADVANCE
11 DECIDE WHAT PARTS OF THE STATE WE WANT TO WORK IN
12 AND TRY TO RECRUIT SOME PROJECTS IN THOSE AREAS
13 SIMILAR TO WHAT WE'VE DONE, ESPECIALLY WITH THE
14 MOST RECENT THREE COMPOST PROJECTS.

15 IT'S MORE FOCUSED, MORE TARGETED ON
16 AN EXACT PROBLEM WE'RE TRYING TO SOLVE IN A
17 CERTAIN REGION OF THE STATE RATHER THAN IT BEING
18 FOCUSED ON THE -- UNNECESSARILY BEING AN INCENTIVE
19 FOR LOCAL GOVERNMENT. IF WE WERE PUTTING A LOT OF
20 MONEY INTO IT, THEN I THINK IF WE WERE PUTTING
21 ENOUGH FOR 50 PROJECTS HERE OR SOMETHING INTO IT,
22 I THINK GETTING INTO THAT INCREMENTAL THING AND
23 TRYING TO ANALYZE COMPETITIVELY THE
APPLICATIONS,

24 I THINK, WOULD MAKE SENSE.

25
OF A

WHAT I SEE HERE IS MUCH MORE

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1 PILOT PROJECT THAT HAS A PURPOSE, A REGIONAL
2 PURPOSE, NOT JUST TRYING TO SOLVE THAT LOCAL
3 GOVERNMENT'S PAVING PROBLEM OR GIVE THEM A
4 SUBSIDY, BUT RATHER TRYING TO MAKE SURE THAT SOME
5 REGIONS OF THE STATE THAT HAVEN'T HAD MUCH IN THE
6 WAY OF DEMONSTRATIONS GET A PROJECT THAT A PUBLIC
7 WORKS DIRECTOR OR A PAVING, WHOEVER IS IN CHARGE
8 OF THAT, CAN GO OVER, TOUCH IT, LOOK AT IT, TALK
9 TO THE STAFF, AND ONE OF THE OBLIGATIONS OF THAT
10 JURISDICTION WOULD BE TO FACILITATE THAT, YOU
11 KNOW, TO BE OPEN TO MEETING ON A REGULAR BASIS
12 WITH THEIR NEIGHBORING -- WE COULD HAVE PAVING
13 FIELD DAY.

14 BOARD MEMBER FRAZEE: I THINK THAT'S A
15 GIANT STEP IN THE RIGHT DIRECTION BECAUSE MY FEAR
16 WITH SOME OF THESE OTHER PROJECTS IS ALL WE DID
17 WAS SUBSIDIZE SOMEONE'S OVERLAY --

18 BOARD MEMBER CHESBRO: AND I AGREE WITH
19 YOU.

20 BOARD MEMBER FRAZEE: -- TO A MUCH
21 GREATER EXTENT THAN THE ACTUAL COST OF THE CRUMB
22 RUBBER OVER OTHER COSTS. SO, YOU KNOW, I WOULD
23 AGREE WITH THAT POINT.

24 LET ME COVER ONE OTHER SUBJECT HERE
25 AND THAT'S THE RESERVE AMOUNT. IS IT THE INTENT

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1 OR ARE WE GOING TO PUT IN POLICY WHERE THAT MONEY
2 WILL BE USED IF IT IS -- OR WHAT THE RESTRICTIONS
3 ARE ON THAT MONEY IF, AND YOU SUGGESTED APRIL OR
4 AT SOME POINT DURING THE FISCAL YEAR, THAT WE --
5 THE EMERGENCY HAS NOT AT THAT POINT ARISEN. AND I
6 JUST WANT TO COME DOWN ON THE SIDE OF RESTRICTING
7 THAT GOING INTO FURTHER REMEDIATION OF THE LEGACY
8 TIRE PILES. THAT'S WHY WE'RE PUTTING IT IN A
9 RESERVE FOR IS IN CASE WE HAVE A FIRE OR WE HAVE
10 SOME OTHER EMERGENCY SITUATION.

11 WE DID STRIKE OUT AND THERE'S NO
12 FUNDING FOR THE ITEM ON THE CHART, EMERGENCY
13 FUNDS, SO THAT'S REALLY WHAT THIS BECOMES. AND I
14 THINK THAT'S WHERE IT OUGHT TO BE USED, BUT LET'S
15 NOT GET CAUGHT IN THE SITUATION WHERE THAT MONEY
16 ESCAPES US DURING THE FISCAL YEAR, AND IT HAS TO
17 ROLL AGAIN INTO ANOTHER YEAR AND WE HAD TO MOVE.

18 CHAIRMAN PENNINGTON: I THINK THAT'S WHAT
19 I WAS SUGGESTING WAS THAT IF BY PROBABLY -- APRIL
20 PROBABLY BE ABOUT THE LATEST WE COULD GO WITHOUT
21 MAKING SOME DECISIONS AS TO WHAT TO DO IF WE HAVE
22 NOT USED THAT IN EITHER THE SITUATION THAT IS
23 POSSIBLE TO OCCUR WITH THE OXFORD THING OR A FIRE
24 OR SOME OTHER HEALTH AND SAFETY RELATED CLEANUP
25 SITUATION, THEN WHEN WE GET TO THAT POINT, THEN

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1 THE BOARD CAN DECIDE.

2 I, OF COURSE, WOULD BE IN FAVOR OF
3 USING IT TO CLEAN UP LEGACY PILES OR THAT SORT OF
4 THING, BUT I WOULDN'T -- I WOULDN'T CLOSE THE DOOR
5 ON PERHAPS ADDITIONAL FUNDING TO SOME OTHER
6 PROJECTS THAT WE'RE LOOKING AT TODAY.

7 BOARD MEMBER CHESBRO: MR. CHAIRMAN, THE
8 NUMBERS THAT THE COMMITTEE ADOPTED, AS I
9 UNDERSTOOD IT FROM THE CHART, INCLUDED RANGES
10 THAT -- THE WAY THEY WERE DESCRIBED TO ME WAS THAT
11 THE LOWER NUMBER WAS THE AMOUNT THAT WOULD BE
12 FUNDED NOW AND THAT THERE WOULD BE THE POTENTIAL
13 FOR AUGMENTATION LATER ON INCLUDING THE
14 POSSIBILITY OF THIS MONEY LATE IN THE YEAR IF IT
15 WAS GOING TO NOT BE AVAILABLE FOR FUNDING. AND I
16 WOULD JUST LIKE TO MAKE THE PITCH FOR A BALANCED
17 APPROACH BETWEEN MARKETS AND REMEDIATION BY SAYING
18 THAT CLEANING UP PILES WITHOUT PRIMING THE PUMP
19 FOR MARKETS IS A CIRCULAR AND USELESS ACTIVITY,
20 THAT WE HAVE TO CONTINUE TO TRY TO FIND A BALANCED
21 PROGRAM.

22 ONE OF THE REASONS WE'RE EVEN HAVING
23 TO HAVE THIS ARGUMENT IS BECAUSE, AS I SAID THIS
24 MORNING, IN MANY PEOPLE'S VIEW 25 CENTS IS A
25 PALTRY SUM, AND IT'S TOUGH TRYING TO FIGURE OUT

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1 WHAT'S MORE IMPORTANT WHEN THEY'RE BOTH VERY
2 IMPORTANT. AND I THINK -- SO WE CAN HAVE THIS
3 ARGUMENT AND THE REAL ISSUE IS THERE'S NOT ENOUGH
4 MONEY TO ADEQUATELY DO EITHER. BUT I REALLY THINK
5 THAT WE NEED TO NOT -- WE NEED TO CONTINUE TO TRY
6 TO HAVE A BALANCED PROGRAM THAT SAYS ON ONE HAND
7 WE'RE TRYING TO CLEAN UP AND ON THE OTHER HAND
8 WE'RE TRYING TO STIMULATE THE MARKETPLACE PERHAPS
9 IN A MORE TARGETED WAY.

10 AND AS I SAID EARLIER, I AGREE WITH
11 MANY OF YOUR CRITICISMS OF HOW WE'VE APPLIED THESE
12 MONIES IN THE PAST, MR. FRAZEE, IN TERMS OF
13 WHETHER THEY ACTUALLY EFFECTIVELY STIMULATED THE
14 MARKET OR DONE OTHER THINGS. BUT I DO THINK THAT
15 I'M VERY CONCERNED. I BECOME EVEN MORE CONCERNED
16 ABOUT THE SIZE OF THE RESERVE AND ITS LACK OF
17 FOCUS IF WE MAKE A DECISION THAT -- AT THIS POINT
18 THAT IT'S GOING TO GO FOR EITHER EXCLUSIVELY OR IN
19 SOME IMBALANCED WAY FOR JUST THE CLEANUP AND NOT
20 FOR SOME OF THESE OTHER PROJECTS.

21 BOARD MEMBER RELIS: MR. CHAIR.

22 CHAIRMAN PENNINGTON: STAFF WANTED TO SAY
23 SOMETHING.

24 MS. TRGOVCICH: MR. CHAIRMAN, I'D JUST
25 LIKE TO POINT OUT, AND THIS IS AN ISSUE THAT I

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1 BELIEVE WE RAISED IN COMMITTEE, I BELIEVE, IN THE
2 MONTH OF OCTOBER. THERE IS A STAFF RESOURCE
3 QUESTION HERE. TAKING THE PLAYGROUND MAT EXAMPLE
4 ALONE, I THINK THE AVERAGE COST THAT WE ESTIMATED
5 PER GRANT, IF YOU ASSUMED A 50-50 MATCH, WOULD BE
6 \$5,000 PER GRANT. AND AT A \$250,000 LEVEL, YOU
7 WOULD BE LOOKING AT 50 GRANTS.

8 IN ADDING IN ANOTHER GRANT COMPONENT
9 FOR RUBBERIZED ASPHALT OR ADDING IN ADDITIONAL
10 STAFF RESOURCE NEEDS, AND THE COMMENT THAT I MADE
11 AT COMMITTEE IS WE ARE IN THE PROCESS, WE JUST
12 ENTERED INTO THE STANDARD AGREEMENTS FOR THE '95-6
13 GRANTS. WE HAVE A SUPPLEMENTAL REPORT REQUIREMENT
14 THAT WAS MANDATED THROUGH THE BUDGET BILL, WHICH
15 WE ARE IN THE PROCESS OF DEVELOPING, EVALUATING
16 ALL OUR PAST GRANTS. AND I MAY HAVE A RESOURCE
17 ISSUE WITH ADDITIONAL GRANT PROGRAMS IN HERE AND
18 ADDITIONAL DOLLARS THAT MAY PRECLUDE ME FROM
19 GETTING ALL THAT MONEY OUT THE DOOR BY THE END OF
20 THIS FISCAL YEAR.

21 BOARD MEMBER FRAZEE: I JUST WANTED TO
22 CARRY ON WITH THE POINT HERE AND GOING TO THE NEXT
23 STEP. THE RANGE ISSUE, FOR EXAMPLE, IN CLEANUP, I
24 DON'T KNOW THAT WE HAVE COME TO A CONCLUSION OF
25 HOW THOSE CLEANUP CONTRACTS ARE GOING TO BE BID

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1 THIS YEAR OR WHETHER A MASTER CONTRACT OR
2 WHETHER -- AND THIS GETS TO STAFF RESOURCES THAT
3 CAREN JUST BROUGHT UP TOO. AS I HEARD DISCUSSED,
4 IF WE ARE GOING TO GO INTO A SITUATION WHERE WE'RE
5 GOING TO SEPARATELY BID EVERY PILE, AND I DON'T
6 KNOW IF THAT'S WHERE WE'RE HEADED OR NOT, THAT
7 INVOLVES A LOT OF STAFF RESOURCES ALSO. OR ARE WE
8 GOING INTO A SITUATION OF A MASTER CONTRACT THAT
9 WE'VE HAD IN THE PAST? AND IF WE'RE DOING THAT,
10 THEN IS THAT GOING TO BE -- IS THAT BID -- AND I
11 UNDERSTAND THERE'S SOME ADVANTAGES TO BIDDING ON A
12 HIGHER AMOUNT -- IS THAT BID GOING TO BE FOR THE
13 RANGE OR FOR THE GUARANTEED AMOUNT?

14 MS. RICE: WE WERE SUGGESTING IN THE ITEM
15 FOR A RANGE TO ACCOMMODATE THE POTENTIAL THAT NOT
16 ALL FUNDS ALLOCATED FOR DIFFERENT PURPOSES WOULD
17 BE USED AND THAT WE WOULD RETURN TO THE BOARD FOR
18 DIRECTION ON WHETHER THOSE MONIES COULD BE ADDED
19 TO EITHER THE CLEANUP CONTRACT OR ANY OTHER MATTER
20 THAT YOU WANTED TO ADD THEM TO, BE IT A GRANT
21 SOLICITATION OR WHATEVER, BUT WE WERE TRYING TO
22 PROVIDE THAT RANGE JUST TO HAVE FLEXIBILITY DOWN
23 THE ROAD WITHOUT DOING A NEW RFQ OR WHATEVER IT
24 MIGHT BE TO ENCUMBER ADDITIONAL MONEY.

25 ON THE QUESTION OF THE MASTER

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1 SERVICES CONTRACT VERSUS INDIVIDUAL CONTRACTING
2 FOR CLEANUPS, I WOULD CERTAINLY RECOMMEND AGAINST
3 INDIVIDUAL CONTRACTS FOR CLEANUPS, BOTH FOR STAFF
4 RESOURCE ISSUES AND TIMING ISSUES. IT'S A TIMELY
5 PROCESS TO DO ON A CASE-BY-CASE BASIS.

6 I WOULD HOPE THAT WE COULD CONTINUE
7 TO WORK WITH BOARD MEMBER OFFICES ON A WAY TO DO
8 THE CONTRACTING FOR THE UPCOMING CLEANUP CONTRACT
9 WHERE WE TRY TO BUILD IN AS MUCH COMPETITIVENESS
10 AS POSSIBLE WITHIN THE SCOPE OF A CONTRACTING. I
11 THINK THERE ARE WAYS TO DO THAT, EVEN USING A
12 MASTER SERVICES CONTRACT.

13 WE'VE CERTAINLY TRIED OUR BEST TO DO
14 THAT WITH THE CURRENT CONTRACT WHICH WE HAVE WHERE
15 WE GET, YOU KNOW, IN THE RANGE OF FIVE BIDS FOR
16 EACH CLEANUP, AND IT HAS BEEN A VERY COMPETITIVE
17 PROCESS. AND WE CAN CERTAINLY LOOK AT WAYS OF
18 MAKING IT EVEN MORE SO. SO THOSE ARE JUST SOME
19 THOUGHTS ON CONTRACTING.

20 BOARD MEMBER CHESBRO: MR. CHAIRMAN, I'D
21 BE A WHOLE LOT MORE COMFORTABLE WITH MS.
22 TRGOVCICH'S COMMENTS IF THERE WAS A SIMILAR SENSE
23 THAT, GEE, IF WE DO TOO MUCH CLEANUP, THAT IT'S
24 TOO MUCH STAFF WORK. I THINK WE HAVE TO MAKE
25 PRIORITY DECISIONS HERE. AND IF THE ISSUE IS

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1 EFFICIENT USE OF STAFF, THEN WE HAVE TO ADDRESS
2 HOW WE DO IT, NOT WHAT THE PRIORITIES ARE, YOU
3 KNOW. I MEAN IF YOUR CONCERN IS, GEE, A LOT OF
4 COMPETITIVE CONTRACTING AND BID PROCESSES TAKE A
5 LOT OF STAFF TIME, THEN LET'S TRY TO FIGURE OUT
6 HOW TO STRUCTURE GETTING THIS MONEY OUT SO THAT WE
7 MINIMIZE THAT.

8 I'M TEMPTED WITH THIS IDEA OF
9 DEMONSTRATION PROJECTS AS OPPOSED TO COMPETITIVE
10 GRANTS, YOU KNOW, TO NARROW IT AND HAVE SOME
11 PRIORITY DECISIONS MADE EARLY ON BY THE STAFF
12 ABOUT WHAT ITS PRIORITIES ARE, PICK THE REGIONS OF
13 THE STATE, BE MUCH MORE FOCUSED IN THE SELECTION
14 PROCESS RATHER THAN ASKING FOR HOWEVER MANY
15 APPLICATIONS COME IN AND HAVING HUGE AMOUNTS OF
16 STAFF TIME SPENT SORTING THROUGH APPLICATIONS.

17 AND I THINK IF STAFF RESOURCES IS
18 THE PROBLEM, THEN YOU COULD ADDRESS -- I HAVEN'T
19 TALKED TO MS. GOTCH ABOUT THIS -- BUT YOU COULD
20 ADDRESS THE PLAYGROUND EQUIPMENT THING SIMILARLY
21 ABOUT HOW DO YOU TARGET THE RESOURCES AND
MINIMIZE

22 THE AMOUNT OF STAFF RESOURCES USED.

THAT'S THE

23 ISSUE WITH STAFF, NOT WHETHER WE SPEND IT

ON

24 MARKETS OR WHETHER WE SPEND IT ON

REMEDICATION, IN

25 MY ESTIMATION. IT'S HOW WE DO IT, NOT
WHAT WE DO.

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1 I THINK IT'S UP TO THE BOARD TO DECIDE ITS
2 PRIORITIES IN TERMS OF WHAT THE AREAS OF
3 ALLOCATION ARE THAT NEED TO BE APPLIED.

4 CHAIRMAN PENNINGTON: MR. RELIS.

5 BOARD MEMBER RELIS: SPEAKING TO
6 PRIORITIES, I'LL NOW GET TO ADD MY TWO CENTS TO
7 THIS DISCUSSION. FIRST, AS A BROADER MATTER, THE
8 POLICY MATTER, I THOUGHT WE HAD RESOLVED THE ISSUE
9 OF HOW TO GENERALLY SPLIT THE MONEY 50-50 BECAUSE
10 50 MARKETS, 50 -- ON THE ASSUMPTION, AND THAT WAS
11 BASED ON THE TESTIMONY, IT'S IN THE POLICY
12 STATEMENT THAT WITHOUT MARKETS, WE'RE NOT GOING TO
13 REALLY SUSTAIN A CLEANUP EFFORT. SO I JUST WANTED
14 TO OFFER THAT.

15 NOW SPEAKING TO SOME OF THE MATTERS
16 OF HOW WE GET TO THE BOTTOM OF THE EXPENDITURES,
17 WHAT PERSUADED ME ABOUT THE L.A. PRESENTATION
18 INITIALLY, WE'LL CALL IT, WAS THE AMOUNT OF TIRES
19 POTENTIALLY DIVERTED THROUGH A SYSTEM OF NOT SO
20 MUCH DEMONSTRATION BECAUSE L.A. COUNTY DOES IT,
21 ACCORDING TO WHAT I'VE BEEN TOLD, WHAT THE
22 PRESENTATIONS THAT HAVE BEEN MADE, THEY'RE NOT AT
23 THE DEMONSTRATION PHASE. THEY'RE LAYING DOWN
24 MILES AND MILES OF TIRES.

25 NOW, SPEAKING TO WHAT MR. CHESBRO

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1 BROUGHT UP, AND THIS LOCAL GOVERNMENT
2 DEMONSTRATION PROJECT, I WONDER IF ANOTHER WAY TO
3 LOOK AT THIS WOULD BE TO -- YOU'RE CONCERNED ABOUT
4 GEOGRAPHIC DISTRIBUTION, AND WE DEALT WITH THAT IN
5 THE AGRICULTURAL DEMONSTRATION COMPOST. YOU'RE
6 RIGHT ON THAT. MY SENSE IS THAT -- AND I WOULD BE
7 INTERESTED TO HEAR WHEN THE TESTIMONY COMES FROM
8 THE FOLKS DOWN SOUTH. SUPPOSE THAT MONIES WERE
9 CONCENTRATED IN THAT PLACE, BUT YOU'RE PROVIDING
10 TECHNICAL ASSISTANCE STATEWIDE. THIS IS NOT -- I
11 DON'T VIEW THIS AS A SOUTHERN CALIFORNIA PROJECT.
12 I VIEW IT AS A STATEWIDE PROJECT.

13 AND THE ISSUE SEEMS TO ME NOT SO
14 MUCH -- YOU MIGHT THINK IT'S DEMONSTRATION, BUT
15 IT'S TECHNICAL ASSISTANCE TO GET BEYOND
16 DEMONSTRATION BECAUSE IF THEY'RE RIGHT, AND
17 THEY'RE SAYING THAT THEY'RE LAYING DOWN TIRES OR
18 CRUMB RUBBER AT A SAVINGS OF \$60,000 A PAVED
MILE,

19 THAT'S NOT AN ISSUE OF -- THAT DOESN'T EVEN
20 REQUIRE AN INCENTIVE. YOU WOULD BE STUPID IF YOU
21 DIDN'T DO IT, IF YOU ARE A PUBLIC WORKS DIRECTOR,
22 IF THAT WAS, IN FACT, THE CASE BECAUSE YOU'RE
23 SAVING THE PUBLIC, YOU'RE LAYING DOWN MORE
24 MILEAGE. SO IF THERE WOULD BE -- IF MR. CHESBRO

25

WOULD BE OPEN AT ALL TO THINKING ABOUT HOW THAT

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1 CONTRACT COULD BE FOCUSED TO ASSURE THAT THE
2 DISTRIBUTION ISSUE WAS ADDRESSED.

3 BOARD MEMBER CHESBRO: I'M CONVINCED, IF
4 I MAY, THAT THE INTENTION OF THE CENTER IS TO BE
5 STATEWIDE. THE REASON WHY I DON'T SEE IT AS
6 COMPLETELY FULFILLING THAT IS THAT SOUTHERN
7 CALIFORNIA, THEY HAVE DEMONSTRATIONS, THEY'VE GOT
8 THE PAVEMENT IN PLACE. AND SO PEOPLE HAVE
9 OPPORTUNITIES NOW TO DO THE FIRST WADING OUT INTO
10 THE ISSUE BY GOING AND LOOKING AND TALKING TO
11 SOMEBODY PRETTY CONVENIENTLY JUST ABOUT ANYWHERE
12 IN SOUTHERN CALIFORNIA. THEY'RE READY FOR THE
13 TECHNICAL ASSISTANCE IS WHAT I'M SAYING. IT'S HIT
14 THE POINT OF COST-EFFECTIVENESS, DEMONSTRATION,
15 ALL THOSE THINGS HAVE HAPPENED. THOSE THINGS
16 HAVEN'T HAPPENED EVERYWHERE IN THE STATE.

17 SO I'M SAYING IS THAT I DON'T KNOW
18 THAT THOSE LOCAL JURISDICTIONS ARE GOING TO BE
19 READY TO TAKE ADVANTAGE OF AND BE EDUCATED
ENOUGH

20 TO WANT TO TAKE ADVANTAGE OF THE SOUTHERN
21 CALIFORNIA CENTER'S SERVICES IF THEY DON'T HAVE
IN
22 THEIR REGION SOMEPLACE THAT THEY CAN SEE THE
STUFF

23 BEING DEMONSTRATED. AND I THINK THAT WE'VE GOT
AN
24 INEQUALITY OF WHERE THE ISSUE HAS DEVELOPED
25 GEOGRAPHICALLY.

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1 AND SO I THINK WE NEED TO DO A
2 LITTLE BIT OF REMEDIAL WORK ELSEWHERE OUTSIDE OF
3 L.A. AND ORANGE COUNTY TO HELP THEM GET TO THE
4 POINT THAT THERE ARE GOING TO BE PEOPLE MORE
5 INTERESTED IN TAKING ADVANTAGE OF WHAT THE
6 SOUTHERN CALIFORNIA CENTER HAS TO OFFER. AGAIN,
7 THOSE FIELD DAYS YOU'VE BEEN TO, PAUL, YOU KNOW
8 THAT THE FARMER JUST COMING DOWN, TALKING TO THE
9 OTHER FARMER AND SEEING IT IS THE FIRST STEP. AND
10 THEN, YOU KNOW, YOU CAN START EDUCATING THEM ABOUT
11 HOW THEY MIGHT USE IT, BUT THEY HAVE TO HAVE THAT
12 FIRST BLUSH. AND I THINK WE'RE AT THAT POINT IN
13 SOUTHERN CALIFORNIA. I'M NOT CONVINCED THAT WE'RE
14 AT THAT POINT EVERYWHERE IN THE STATE. IN FACT,
15 I'M CONVINCED THAT WE'RE NOT IN MANY PLACES. SO I
16 GUESS THAT'S MY ARGUMENT.

17 BOARD MEMBER RELIS: OKAY. IF I COULD
18 JUST GO ON FOR A MOMENT FURTHER. ON THE QUESTION
19 OF THE MATS, IT SEEMS TO ME THAT, YOU KNOW, AT
20 THIS STAGE WE HAVE -- IN THE MOTION WE HAVE
21 PROPOSED, WHAT, 250 FOR THE MATS. IT'S A SIZABLE
22 NUMBER. WE HAVE SPENT 269,000 OR THEREABOUTS
23 HISTORICALLY ON MATS. I MIGHT BE PERSUADED TO DO
24 MORE DOWN THE LINE ON MATS IF WE CAN SEE THAT
25 WE'RE HAVING A NUMERICAL, A SUBSTANTIAL NUMERICAL

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1 IMPACT ON THE TIRE PROBLEM BECAUSE FUNDAMENTALLY
2 THAT'S MY BOTTOM LINE CONCERN. HOW DO WE TAKE A
3 LIMITED NUMBER OF -- VERY LIMITED NUMBER OF
4 DOLLARS AND HAVE THE MAXIMUM IMPACT ON HEALTH AND
5 SAFETY AND ON DIVERTING THESE TIRES FROM TIRE
6 PILES AND THE ANNUAL EXCESS.

7 AND RIGHT NOW I'M NOT CONVINCED THAT
8 THERE'S ENOUGH NUMERICAL -- THERE'S NOT A LARGE
9 ENOUGH NUMBER. THERE'S A THEORETICAL NUMBER OF
10 3.8 MILLION, I THINK, IF ALL THE SCHOOLS USE THEM
11 AND -- BUT I THINK WE SHOULD GET SOME MORE
12 EXPERIENCE WITH IT. AND I THINK 200,000 WOULD
13 GIVE US ENOUGH TO GET THAT EXPERIENCE.

14 BOARD MEMBER GOTCH: MAY I ADDRESS THAT?
15 I DON'T KNOW IF YOU -- I'D LIKE TO ASK IF MY
16 COLLEAGUES HAD A CHANCE TO READ THE WHITE PAPER
17 THAT I PUT OUT. THIS ADDRESSES, ONE, IS THE
18 SAFETY TO KIDS. THEY'RE -- 90 PERCENT OF
19 CALIFORNIA PLAYGROUNDS LACK THE PROTECTIVE
20 SURFACING. BUT THEN THE WASTE DIVERSION, YOU HAD
21 MENTIONED THAT 3.7 MILLION TIRES THAT WE ARE AWARE
22 OF PUBLIC ELEMENTARY SCHOOLS, BUT ADDITIONALLY
23 THERE ARE LOCAL GOVERNMENTS, PRIVATE SCHOOLS, DAY
24 CARE CENTERS ALL WITH DIFFERENT PLAYGROUNDS THAT
25 NEED PROTECTIVE SURFACING, SO THAT NUMBER COULD BE

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1 THREE TO FOUR TIMES HIGHER.

2 AND THE MARKET DEVELOPMENT ASPECT OF
3 IT, WHICH THIS CREATES TREMENDOUS MARKET
4 DEVELOPMENT OPPORTUNITIES FOR BUSINESSES THAT ARE
5 EXISTING AND FOR NEW BUSINESSES, AND THE PUBLIC
6 EDUCATION AND THE PARTNERSHIP POTENTIAL.

7 BOARD MEMBER RELIS: I DON'T DISPUTE THE
8 POSSIBILITY, BUT I THINK THAT'S VERY MUCH A
9 THEORETICAL NUMBER AT THIS POINT. NOW, YOU COULD
10 SAY THAT'S TRUE IN CRUMB RUBBER AS WELL, BUT WE
11 HAVE LOTS OF MILES BEING LAID HERE. AND I'M NOT
12 SAYING -- THIS ISN'T AN ALL OR NOTHING. WE'RE
13 STILL TALKING ABOUT \$250,000 GOING TO THE PROGRAM.
14 SO...

15 BOARD MEMBER GOTCH: AND THE PRUDENT
16 RESERVE IS ALSO AN ARBITRARY NUMBER THAT'S THROWN
17 OUT THERE ALSO. SO...

18 CHAIRMAN PENNINGTON: OKAY. LET'S HEAR
19 FROM THE PUBLIC A LITTLE BIT. MICHAEL BYRNE.

20 MR. BYRNE: THANK YOU, MR. CHAIRMAN AND
21 MEMBERS OF THE COMMITTEE. BACK IN THE EARLY '80S,
22 I WAS A BUDGET ANALYST AT THE DEPARTMENT OF
23 FINANCE. IN FACT, ONE OF MY BUDGETS WAS THE THEN
24 SOLID WASTE MANAGEMENT BOARD WITH ITS 65
25 EMPLOYEES, AND A PART OF THAT JOB YOU HAVE TO

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1 TESTIFY BEFORE THE LEGISLATURE. AND I HAD A VERY
2 SAGE PRINCIPAL ANALYST THAT SAID IF YOU'RE LOSING,
3 KEEP TALKING. IF YOU'RE WINNING, SIT DOWN AND
4 SHUT UP. AT THIS POINT IN TIME, I DON'T KNOW IF I
5 SHOULD KEEP TALKING OR SIT DOWN.

6 CHAIRMAN PENNINGTON: I DON'T EITHER.

7 MR. BYRNE: LET ME MAKE A FEW COMMENTS.
8 THE PROPOSAL FROM OXFORD AND FROM MELP IS VERY
9 TIME SENSITIVE. IF WE DON'T GET SOMETHING
10 TOGETHER BY JANUARY OR FEBRUARY, YOU KNOW, I WOULD
11 SAY THAT THERE'S REALLY NO NEED TO DO IT BECAUSE
12 IT'S ALL BASED UPON THAT CLIFF DATE THAT SITS OUT
13 THERE IN SEPTEMBER OF '97.

14 NOW, MELP AND OXFORD, WE'VE GOT LOTS
15 OF PROBLEMS. WE'RE HAVING DIFFICULTY BETWEEN THE
16 TWO ORGANIZATIONS, AND I HOPE THAT WE CAN WORK
17 THOSE PROBLEMS OUT. AND IF WE CAN WORK THOSE
18 PROBLEMS OUT, I HOPE WE CAN WORK WITH STAFF AND
19 COME TOGETHER WITH A PROPOSAL. BUT THAT PROPOSAL
20 HAS TO BE BEFORE YOU, SAY, IN THE NEXT 60 DAYS OR,
21 LIKE I SAY, IT'S NOT A VALID PROPOSAL ANYMORE.

22 NOW, HALF A MILLION DOLLARS WILL
23 TAKE THE PILE OF 6.5 MILLION TIRES THAT IS
24 REQUIRED BY THE PERMIT ON MAY 1 AND REDUCE THAT BY
25 THREE MILLION TIRES, WHICH IS QUITE A SUBSTANTIAL

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1 REDUCTION. IN FACT, LIKE I SAID TO THE BOARD
2 BEFORE, THE CALIFORNIANS AGAINST WASTE WERE VERY
3 SUPPORTIVE OF THE PROPOSAL PRIMARILY FOR THAT
4 REASON. FOR VERY LITTLE MONEY, YOU CAN GET A VERY
5 BIG REDUCTION IN THE PROBLEM OUT THERE IN WESTLEY.
6 SO I WOULD RECOMMEND LEAVING THE \$500,000 IN THERE
7 AS A PRUDENT RESERVE, SEE IF WE CAN WORK SOMETHING
8 OUT. IF WE CAN'T, YOU WILL KNOW VERY SOON.

9 CHAIRMAN PENNINGTON: QUESTIONS OF MR.
10 BYRNE? THANK YOU. NEXT WE HAVE DONNA CARLSON.

11 MS. CARLSON: THANK YOU, MR. CHAIRMAN,
12 AND GOOD AFTERNOON TO THE MEMBERS OF THE BOARD.
13 I'M THE EXECUTIVE DIRECTOR OF THE RUBBER

PAVEMENTS

14 ASSOCIATION, AND WE ARE CURRENTLY BASED IN TEMPE,
15 ARIZONA. WE HAVE BEEN IN WASHINGTON, D.C., FOR
16 ABOUT FOUR YEARS, AND OUR ASSOCIATION HAS
17 COMPLETED ITS TASK IN WASHINGTON, D.C., AND IS
18 NOW

19 BACK IN THE WEST COAST PRIMARILY TO PROVIDE AN
20 OUTREACH PROGRAM TO STIMULATE THE MARKET OF CRUMB
21 RUBBER MODIFIED ASPHALTS.

22 ONE OF THE THINGS THAT WE DID IN
23 WASHINGTON, D.C., OTHER THAN BEING THE SUBJECT OF
24 A MANDATE IN THE ISTEA LEGISLATION, WAS TO LOBBY

24 FOR FEDERAL RESEARCH MONEY, AND THAT RESEARCH IS
25 TAKING PLACE. THERE IS A WHOLE BODY OF FEDERAL

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1 RESEARCH THAT IS NOW NEAR COMPLETION, AND WE WILL
2 BE TAKING THAT AND PROVIDING THAT TECHNICAL
3 ASSISTANCE TO STATE AGENCIES AND LOCAL AGENCIES
4 THROUGHOUT THE WESTERN UNITED STATES AND
5 THROUGHOUT THE UNITED STATES, IN FACT.

6 THE REASON I AM HERE IS YOUR
7 PROPOSAL FOR A STATEWIDE CENTER FOR TECHNICAL
8 ASSISTANCE. WE ARE VERY INTERESTED IN THIS, AND
9 WE COMMEND YOU FOR GIVING THOUGHT AND CONSIDERA-
10 TION TO THIS TYPE OF OUTREACH THAT WILL INCREASE
11 THE MARKET HERE IN CALIFORNIA. I'M SURE YOU ARE
12 AWARE THAT CALIFORNIA IS ONE OF THE LEADING USERS
13 OF CRUMB RUBBER MODIFIED ASPHALTS, AND THE MARKET
14 IS GROWING. AND WE'RE VERY INTERESTED IN SEEING
15 THAT THAT GROWTH CONTINUES.

16 MY BOARD OF DIRECTORS HAS A LARGE
17 NUMBER OF CALIFORNIA FIRMS. IN FACT, MOST OF THE
18 INDUSTRY HERE IN CALIFORNIA ARE MEMBERS OF MY
19 BOARD OF DIRECTORS. SO WE'RE VITALLY INTERESTED
20 IN SEEING WHAT KIND OF A PROGRAM IS GOING TO BE
21 PUT TOGETHER AND WHAT WE CAN DO TO HELP YOU PUT
22 THAT OUTREACH PROGRAM TOGETHER BECAUSE WE HAVE AT
23 OUR DISPOSAL AND WITHIN THE SCOPE OF THE PURPOSE
24 OF OUR ASSOCIATION THE MEANS OF HELPING TO
25 TRANSFER TECHNOLOGY TO AGENCIES WHO ARE NOT

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1 FAMILIAR WITH THE USE OF THIS PRODUCT.

2 SO WE'RE VERY INTERESTED IN WORKING
3 WITH YOU TO DEVELOP A PROGRAM. WE WOULD LIKE TO
4 SEE WHAT SUCH A PROGRAM IS GOING TO INVOLVE. AND
5 I MUST APOLOGIZE THAT I HAVEN'T BEEN ABLE TO
6 CONTACT THE MEMBERS OF THE BOARD SOONER. I HAVE
7 HAD SOME LIMITED CONTACT WITH SOME STAFF MEMBERS,
8 AND I JUST LEARNED OF THIS PROPOSAL ON THE 13TH OF
9 NOVEMBER, SO I HAVEN'T HAD A LOT OF TIME.

10 I DID VISIT THE COUNTY OF LOS
11 ANGELES TO TRY AND GET A FEEL FROM THEM AS TO THE
12 TYPE OF PROGRAM THEY WERE GOING TO PUT TOGETHER TO
13 TAKE THE TECHNOLOGY THAT'S AVAILABLE AND GET IT
14 OUT TO THE LOCAL AGENCIES TO STIMULATE THE USE.
15 AND CERTAINLY THEY'RE WELL QUALIFIED TO DO THAT
16 BECAUSE THEY ARE A LONGTIME USER OF THIS PRODUCT
17 AND THEY HAVE HAD A LOT OF EXPERIENCE.

18 BUT I DIDN'T COME AWAY WITH A REAL
19 SENSE OF WHAT WAS GOING TO TAKE PLACE. I FELT
20 THAT, YES, THERE'S A DESIRE ON THE PART OF THE
21 CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD TO DO
22 SOMETHING TO STIMULATE THE MARKET AND, OF COURSE,
23 THAT WILL BENEFIT OUR INDUSTRY AND OUR ASSOCIATION
24 IF THIS MARKET CONTINUES TO GROW, BUT I DIDN'T GET
25 A REAL SENSE OF WHAT WAS GOING TO HAPPEN, AND

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1 THAT'S WHAT WE WANT TO KNOW.

2 AND WHAT -- IF WE CAN HAVE A PART IN
3 PUTTING TOGETHER A PROGRAM THAT WILL ACCOMPLISH
4 YOUR GOALS, WE ARE MORE THAN WILLING TO DO
5 EVERYTHING WE CAN. SO WITH THAT IN MIND, I WOULD
6 LIKE TO REQUEST THAT YOU PUT THIS OUT AS AN RFP SO
7 SPECIFIC GOALS CAN BE DRAFTED THAT WILL ACCOMPLISH
8 WHAT YOU WANT TO DO.

9 AND WE'LL BE GLAD TO WORK WITH YOU
10 IN WHATEVER FORM IT TAKES, WHETHER IT BE AN AGENCY
11 ONLY THAT CAN SUBMIT TO THE RFP OR WHETHER IT CAN
12 BE A COMBINATION OF AGENCY AND, SAY, A NONPROFIT
13 ASSOCIATION SUCH AS OURS OR PERHAPS A UNIVERSITY,
14 BUT A COMBINATION, WHATEVER IT WOULD TAKE TO DO
15 THE JOB AND GET IT DONE WELL. SO WE REALLY WOULD
16 LIKE TO SEE SOMETHING THAT WE CAN SAY, YES, THIS
17 IS GOING TO BE A GREAT PROGRAM AND WE CAN
18 CONTRIBUTE TO THIS.

19 SO WE WOULD LIKE TO SEE YOU PUT OUT
20 AN RFP FOR THIS STATEWIDE CENTER. AND I MIGHT ADD
21 THAT OUR ASSOCIATION IS CURRENTLY A SUBCONTRACTOR
22 ON A GRANT THAT YOU GAVE LAST YEAR TO CAL STATE
23 UNIVERSITY AT SACRAMENTO FOR TWO WORKSHOPS WHICH
24 ARE UPCOMING IN MAY. AND WE HAD HOPED TO USE
25 THOSE WORKSHOPS, WHICH ARE BEING GEARED TOWARDS

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1 LOCAL AGENCIES, AS A FORUM WHERE WE CAN GET
2 FEEDBACK FROM THOSE AGENCIES ON WHAT DO YOU NEED
3 IN THE WAY OF TECHNICAL ASSISTANCE AND THEN DRAFT
4 RECOMMENDATIONS FOR YOU FROM WHAT WE LEARN AT
5 THOSE WORKSHOPS.

6 AND AS WE SPEAK, OUR ASSOCIATION,
7 WHOSE ROLE IN THIS PROGRAM IS TO PROMOTE THE
8 WORKSHOPS AND TO HELP CAL STATE UNIVERSITY PUT
9 TOGETHER A GROUP OF VERY EXPERT TECHNICAL
10 SPEAKERS, AS WE SPEAK, I AM HAVING OUR ASSOCIATION
11 NEWSLETTER SENT TO EVERY CITY ENGINEER IN THE
12 STATE OF CALIFORNIA AND EVERY CITY PUBLIC WORKS
13 DIRECTOR IN THE STATE OF CALIFORNIA, AS WELL AS
14 YOUR COUNTY AGENCIES AND APPROPRIATE AGENCIES THAT
15 WE WOULD NORMALLY MAIL TO ANYHOW AS A MEANS OF
16 PROMOTING THIS WORKSHOP SO WE CAN GAIN THIS
17 VALUABLE FEEDBACK FROM THE PEOPLE WHO ATTEND THE
18 WORKSHOPS.

19 SO WE STAND READY TO ASSIST THIS
20 BOARD IN ANY WAY WE CAN TO PUT TOGETHER A PROGRAM
21 THAT IS A TRUE OUTREACH PROGRAM. AND I WOULD ASK
22 YOU TO SERIOUSLY CONSIDER MY REQUEST, THAT THIS BE
23 PUT OUT IN THE FORM OF AN RFP SO YOUR STAFF AND
24 YOU CAN CLEARLY DELINEATE WHAT IT IS YOU WANT TO
25 DO AS AN OUTREACH PROGRAM. AND WITH THAT, I WILL

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1 ANSWER ANY QUESTIONS YOU HAVE.

2 CHAIRMAN PENNINGTON: ANY QUESTIONS OF
3 MS. CARLSON?

4 BOARD MEMBER FRAZEE: JUST TO SAY, MR.
5 CHAIRMAN, I DON'T THINK YOU ARE ALONE IN BELIEVING
6 THAT THIS ITEM NEEDS MORE WORK, BUT I BELIEVE
7 THAT'S THE POINT THAT WE ARE VISITING RIGHT NOW IS
8 WHETHER OR NOT WE'RE GOING TO BUDGET, AND IT'S
9 PRETTY CONCEPTUAL, I THINK, AT THIS POINT. LOS
10 ANGELES COUNTY DID COME TO US WITH A CONCEPT. AND
11 I THINK WE ALL ACCEPTED THAT AS BEING WORTHWHILE.
12 BUT CERTAINLY FOR THIS MEMBER THERE'S A LOT MORE
13 WORK THAT MUST BE DONE BEFORE WE ACTUALLY FUND
14 THAT PROPOSAL. SO THIS IS SORT OF A BUDGETING
15 STEP, AND I APPRECIATE YOUR COMMENT AND HOPE
YOUR
16 ASSOCIATION WILL BE AN ACTIVE PARTICIPANT IN
WHAT
17 EVOLVES FROM THIS.

18 MS. CARLSON: WE CERTAINLY WILL BE AN
19 ACTIVE PARTICIPANT AT WHATEVER FORM THIS TAKES.
20 AND I DO UNDERSTAND THAT YOU ARE JUST ALLOCATING
21 SOME FUNDS. WHAT I'M SAYING IS WE'D LIKE TO SEE
22 THE BOARD TAKE THE NEXT STEP AND DO AN RFP SO WE
23 CAN HAVE CLEAR, DELINEATED GOALS OF THE BOARD

AND

24 THAT WE CAN PROVIDE ASSISTANCE IN WHATEVER MEANS
25 IN HELPING WITH THE OUTREACH. SO THANK YOU VERY

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1 MUCH.

2 CHAIRMAN PENNINGTON: MS. CARLSON, I'M
3 NOT TOO FAMILIAR WITH YOUR ASSOCIATION. WHO ARE
4 THE MEMBERS OF YOUR ASSOCIATION?

5 MS. CARLSON: OKAY. WE ARE AN
6 INTERNATIONAL ASSOCIATION ACTUALLY. WE HAVE
7 MEMBERS OF THE RUBBER PRODUCERS, THE PEOPLE WHO
8 RECYCLE THE SCRAP TIRES. TWO OF OUR MEMBERS ARE
9 SITTING HERE IN THIS ROOM, REPRESENTING BAS AND
10 ATLOS RUBBER. AND WE ALSO HAVE THE CONTRACTORS
11 WHO TAKE THE CRUMB RUBBER AND PUT IT IN ASPHALT AS
12 OUR MEMBERS.

13 SO IN CALIFORNIA I WOULD SAY 90
14 PERCENT OF THE PEOPLE INVOLVED IN THIS INDUSTRY
15 ARE MEMBERS OF OUR ASSOCIATION, AND YOU HAVE A
16 VAST AMOUNT OF EXPERTISE AND TECHNOLOGY THROUGH
17 THE PEOPLE WHO HAVE BEEN OUT THERE IN THE FIELD
18 FOR MANY, MANY YEARS THAT CAN BE VERY HELPFUL IN
19 WHATEVER PROGRAM YOU PUT TOGETHER.

20 CHAIRMAN PENNINGTON: OKAY. THANK YOU.
21 OKAY. JACK MICHAEL.

22 MR. MICHAEL: THANK YOU, MR. CHAIRMAN AND
23 MEMBERS OF THE BOARD. I'M JACK MICHAEL
24 REPRESENTING LOS ANGELES COUNTY. I CERTAINLY HAVE
25 VERY FEW WORDS TO SAY AT THIS POINT. WE'VE

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1 DISCUSSED THIS ON MANY OCCASIONS.

2 I WOULD SIMPLY SAY I THINK, BASED ON
3 THE DISCUSSION EARLIER OF COMMITMENT OF STAFF
4 RESOURCES, WE'D CERTAINLY ENCOURAGE INTERAGENCY
5 APPROACH ON OUR PROPOSAL. I THINK THAT THE --
6 CERTAINLY THE ISSUES RAISED BY MS. CARLSON CAN BE
7 ADDRESSED AS WELL THROUGH THAT PROCESS AS THROUGH
8 AN RFP. HOWEVER, WE STAND READY TO PROCEED
9 HOWEVER THE BOARD CHOOSES AND LOOK FORWARD TO
10 GETTING ON WITH THIS SO THAT WE CAN BEGIN THE REAL
11 PROCESS OF GETTING OTHERS INVOLVED IN PUTTING
12 RUBBERIZED ASPHALT ON THE GROUND. I'LL BE
13 AVAILABLE TO ANSWER ANY QUESTIONS.

14 CHAIRMAN PENNINGTON: ANY QUESTIONS OF
15 MR. MICHAEL? OKAY. THANK YOU. NEXT IS CLIFF
16 ASHFORD -- ASHCROFT.

17 MR. ASHCROFT: MR. CHAIRMAN AND LADIES
18 AND GENTLEMEN OF THE BOARD, APPRECIATE THE
19 OPPORTUNITY TO TALK WITH YOU HERE TODAY. I'M THE
20 MARKETING MANAGER FOR THE ASPHALT RUBBER PAVING
21 DIVISION OF MANHOLE ADJUSTING. MANY OF YOU HAVE
22 PROBABLY KNOWN OF US IN TIMES PAST. WE SENT OUT
A
23 NEWS MESSENGER LETTER THAT BESPEAKS OF THE
ASPHALT

24 RUBBER WORK BEING DONE THROUGHOUT THE STATE. WE
25 HAVE A DISTRIBUTION OVER 6,000 IN THE STATE OF

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1 CALIFORNIA.

2 IN 1992 WE HAD THE PRIVILEGE AND
3 OPPORTUNITY TO HAVE DOWN MEMBERS OF THE BOARD TO
4 ONE OF THE LARGEST PROJECTS THAT WE HAD PROCURED
5 AND DEVELOPED AT THAT TIME, AND THAT WAS THE CITY
6 OF THOUSAND OAKS. AT THAT TIME THEY PUT FORTH A
7 53,000 TON PROJECT, WHICH INCORPORATED THE USE OF
8 ROUGHLY A HUNDRED FIFTY THOUSAND OR THE EQUIVALENT
9 THEREOF OF SCRAP TIRES. VERY LARGE FOR ITS TIME.

10 WE BASED A NEWSLETTER AROUND THAT
11 AND SENT IT TO OVER 6,000 PEOPLE THROUGHOUT THE
12 STATE. THE BOTTOM LINE WITH MYSELF IS, AS A
13 MARKETING MANAGER FOR THE COMPANY, MY LIVELIHOOD
14 AND THE LIVELIHOOD OF ABOUT 60 EMPLOYEES FOR THE
15 PAST TEN YEARS HAS REVOLVED AROUND THE SUCCESSFUL
16 TECHNOLOGY TRANSFER. I'D LIKE TO CALL IT AN
17 EDUCATIONAL CAMPAIGN BECAUSE WHEN WORKING WITH
18 ENGINEERS AND OTHER DECISION MAKERS THAT HANDLE
19 FUNDING, I HAVE FOUND THAT WITH PROPER EDUCATION,
20 THE DECISION IS OFTEN MADE TO GO AHEAD AND PROCEED
21 WITH THE USE OF ASPHALT RUBBER, BUT THERE'S AN
22 EDUCATION PROCESS THAT NEEDS TO BE DONE.

23 WE FEEL BASICALLY THAT WE'VE DONE A
24 VERY SUCCESSFUL JOB, AND THAT CAN BE UNDERSTOOD
25 FROM THE FACT THAT THERE'S A GREAT DEAL OF DEMAND,

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1 THERE'S A GREAT DEAL OF CONCERN HERE TODAY, AND A
2 LOT OF INTEREST THAT'S BEING SHOWN WITH RESPECT TO
3 THE USE OF ASPHALT RUBBER.

4 IT'S COME TO MY ATTENTION RECENTLY
5 THAT THERE IS AN ONGOING CONSIDERATION FOR FUNDING
6 WITH RESPECT TO A TECHNOLOGY TRANSFER AND OUTREACH
7 PROGRAM. AND LOS ANGELES COUNTY HAS FOLLOWED
8 THROUGH WITH THAT IN CONJUNCTION WITH TOP
9 (PHONETIC) CONSULTANTS INCORPORATED. THE ATTEMPT
10 BEHIND THE FUNDING, I THINK, IS OUTSTANDING, AND I
11 COMMEND THE BOARD AND THE STAFF MEMBERS FOR THEIR
12 UNDERSTANDING OF WHAT'S TAKING PLACE IN THE
13 INDUSTRY.

14 IT'S LIKE THE SNOW BALL IS ROLLING
15 AT THIS POINT, BUT WE NEED TO KEEP IT GOING. AND
16 THE WAY TO DO SO IS THROUGH EDUCATION AND TO HAVE
17 PROPER JOBS GET PLACED DOWN ON THE GROUND. TO
18 DATE WE HAVE WORKED WITH SEVERAL PROFESSIONALS AND
19 CONSULTANTS IN THE INDUSTRY, CUMULATIVELY HUNDREDS
20 OF YEARS OF EXPERIENCE THAT WE HAVE REFERENCED
21 THROUGHOUT THE TEN YEARS THAT WE HAVE BEEN WORKING
22 IN THIS INDUSTRY AND PROMOTING IT, PARTICULARLY IN
23 SOUTHERN CALIFORNIA. WE HAVE A LOT OF EXPERIENCE.
24 THERE'S A LOT OF REFERENCE AND A LOT OF RESEARCH
25 WE HAVE AVAILABLE AT OUR FINGERTIPS.

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1 AGAIN, THE INTENT BEHIND THE
2 OUTREACH PROGRAM, I THINK, IS OUTSTANDING AND VERY
3 WELL NEEDED; HOWEVER, HERE'S A CONCERN THAT I
4 HAVE. AS A MARKETING MANAGER OF THIS COMPANY THAT
5 I'M ASSOCIATED WITH AND ONE WHOSE LIVELIHOOD IS
6 DEPENDENT UPON A SUCCESSFUL OUTREACH PROGRAM, I
7 RECOGNIZE THAT SPECIFIC GOALS AND OBJECTIVES HAVE
8 TO BE LAID OUT SUCH THAT ONE CAN ANALYZE PROGRESS,
9 CHECK WITH METHODS THAT ARE BEING DONE WITH
10 RESPECT TO OUTREACH, ALTER AND ADJUST THROUGHOUT
11 THE COURSE OF TIME SUCH THAT YOU CAN HAVE THE MOST
12 SUCCESSFUL PROGRAM OR EDUCATION INFORMATION
13 EXCHANGE POSSIBLE. THAT RELATES TO SUCCESS NOT
14 ONLY FOR US, BUT FOR THE INDUSTRY AS A WHOLE.

15 CURRENTLY OF WHAT I KNOW OF THE
16 PROPOSAL OF LOS ANGELES COUNTY, I DON'T SEE ANY
17 SPECIFIC GOALS OR SUBGOALS OR OVERALL ACHIEVEMENT
18 GOALS THAT ARE TO BE REACHED. THAT CONCERNS ME.
19 I DON'T SEE A MECHANISM IN PLACE TO CHECK THOSE
20 GOALS AND MAKE CHANGES AND ADJUSTMENTS TO THEM.
21 AS WELL, I FEEL THAT IF THE BOARD WANTED TO GET
22 THE BIGGEST BANG FOR THEIR BUCK, IF THEY PUT IT
23 OUT TO THE PUBLIC INDUSTRY, SUCH THAT ANY
24 INDIVIDUAL SUCH AS OURSELVES WHO HAVE HAD A
DECADE

25

OF EXPERIENCE WITH THE PROMOTION AND HAVE VERY

160

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1 SUCCESSFUL OUTREACH PROGRAMS THAT HAVE TAKEN
2 PLACE, THE RUBBER PAVEMENTS ASSOCIATION OR OTHER
3 INDIVIDUALS THAT ARE OUT THERE, THEY CAN GO TO
THE
4 PRIVATE SECTOR AND HAVE A COMPETITIVE ENVIRONMENT
5 EXIST. AND TYPICALLY WHEN PEOPLE THAT ARE PLACED
6 IN A COMPETITIVE ENVIRONMENT, THEY WORK A LITTLE
7 BIT HARDER THAN THEY WOULD RIGHT FROM THE GET-GO
8 BECAUSE BOTTOM LINE TO THEM, THEIR LIVELIHOODS
ARE
9 AT STAKE.

10 SO, AGAIN, MY RECOMMENDATION OR AT
11 LEAST CONCERN TOWARDS THE BOARD WOULD BE TO
CREATE
12 A COMPETITIVE ENVIRONMENT, TO ESTABLISH CLEAR-CUT
13 GOALS, AND TO ALLOW OTHER EXPERTS IN THE INDUSTRY
14 TO HELP PARTICIPATE AND ACHIEVE THE VERY NOBLE
15 GOALS THAT YOU HAVE SET THAT ARE VERY MUCH
16 REQUIRED AT THIS TIME IN THE GROWTH OF THE
ASPHALT
17 RUBBER INDUSTRY.

18 BOARD MEMBER RELIS: POINT OF
19 CLARIFICATION SINCE TWO SPEAKERS HAVE BEEN UP ON
20 THE SUBJECT OF WHAT WOULD BE THE GOALS AND
21 OBJECTIVES. I THINK, AS I UNDERSTAND IT, AND,

22 STAFF, COULD CORRECT ME IF I'M ERRING HERE, IF WE
23 DID DO AN INTERAGENCY AGREEMENT, THE IDEA WAS WE
24 WERE GOING -- THIS WAS A BOARD DRIVEN PROCESS
WITH
25 GOALS AND OBJECTIVES SPECIFIED BY THE BOARD, NOT

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1 BY THE RECEIVING PARTY.

2 IN OTHER WORDS, WE KNOW AND WE WILL
3 THRASH THROUGH WHAT WE WANT OUT OF THE CONTRACT,
4 NOT -- THIS ISN'T A PASSIVE RELATIONSHIP FROM OUR
5 SIDE. SO I JUST TRY TO ALLEVIATE ANY CONCERNS
6 THAT WE DON'T UNDERSTAND THAT SPECIFIC GOALS,
7 OBJECTIVES, ACCOUNTABILITY WOULD BE FOREMOST IN
8 OUR MINDS.

9 MR. ASHCROFT: CERTAINLY. I APPRECIATE
10 THAT STATEMENT. MY CONCERN IS THAT AT THIS POINT
11 THE MAJOR STEP IS BEING MADE, A VERY GOOD STEP,
12 BUT MY CONCERN IS TO GET THE FRAMEWORK
13 ESTABLISHED. AND ME, AS A GENERAL PERSON OF THE
14 PUBLIC, VERY KNOWLEDGEABLE AS FAR AS WORKING WITH
15 LOS ANGELES COUNTY -- THEY'VE DONE AN OUTSTANDING
16 JOB, AND THEY WOULD BE WELL IN PLACE TO CARRY OUT
17 WITH THIS -- BUT AGAIN, MY CONCERN WOULD BE IS TO
18 HAVE THE PROPER FRAMEWORK LAID OUT.

19 THE ONLY DOCUMENTS THAT I HAVE BEEN
20 ABLE TO REVIEW DON'T LAY OUT A PROPER FRAMEWORK
21 OR
22 AT LEAST FROM MY PERSPECTIVE, AND AS WELL IT
23 SEEMS
24 TO BE NARROWED DOWN AS TO WHO WOULD BE AVAILABLE,
25 LET'S SAY, WITH A REFERENCE TO OUTSIDE

24 CONSULTANTS, INDUSTRY KNOWLEDGE AND EXPERIENCE
25 THAT EXISTS. AND AGAIN, THAT WOULD BE A

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1 CONCERN -- I WOULD -- IF THAT'S GOING TO BE THE
2 CASE WHERE THERE IS GOING TO BE A PRIVATE TYPE OF
3 CONSIDERATION WITH RESPECT TO PART OF THIS
4 FUNDING, I WOULD LIKE TO SEE IT AVAILABLE TO A
5 COMPETITIVE ATMOSPHERE WHERE THE BOARD CAN AGAIN
6 GET THE BEST BANG FOR THEIR BUCK.

7 CHAIRMAN PENNINGTON: OKAY. THANK YOU.
8 ANY OTHER QUESTIONS OF MR. ASHCROFT? OKAY. NEXT
9 IS BOB WINTERS.

10 MR. WINTERS: GOOD AFTERNOON, MR.
11 CHAIRMAN, MEMBERS OF THE BOARD. I HAVE EQUIVALENT
12 CONCERNS THAT -- I HAVE EQUIVALENT CONCERNS TO MS.
13 CARLSON'S AS WELL AS MR. ASHCROFT. I'VE BEEN IN
14 THE ASPHALT RUBBER INDUSTRY SINCE ITS INCEPTION.
15 AS A MATTER OF FACT, THE RPA, THE RUBBER PAVEMENTS
16 ASSOCIATION, PREDECESSOR ASSOCIATION, WHICH WAS
17 THE ASPHALT RUBBER PRODUCERS GROUP AND THEN BECAME
18 THE RUBBER PAVEMENTS ASSOCIATION, WE WERE ONE OF
19 THE FOUNDING MEMBERS, AND I SERVED TWO TERMS AS
20 ITS PRESIDENT.

21 JUST BY WAY OF PRESENTING OUR
22 CREDENTIALS RELATIVE TO EXPERIENCE, WE'VE BEEN
23 AROUND THIS INDUSTRY A LONG, LONG TIME. WE'VE
24 SEEN THE WET PROCESS, WE'VE SEEN DRY PROCESS,
25 WE'VE SEEN PATENTED PROCESSES, WE'VE SEEN

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1 THIS VERY WORTHWHILE PROJECT. WE WOULD LOVE TO
2 SEE THIS BE AVAILABLE TO ALL OF THE CITIES,
3 COUNTIES, AND OTHER AGENCIES IN THE STATE OF
4 CALIFORNIA. AND WITH THAT, I'LL JUST REQUEST THAT
5 YOU RESPECTFULLY LOOK INTO THE POSSIBILITY OF AN
6 RFP WHERE THE GOALS AND OBJECTIVES ARE MORE
7 CLEARLY DESIGNED, AT LEAST TO US, SO THAT WE KNOW
8 WHAT THE FOCUS IS AND CAN CONTRIBUTE TO EITHER
9 ADVISING THE BOARD OR ADVISING THE TECHNOLOGY
10 TRANSFER CENTER AS TO WHAT OTHER INPUT WOULD BE
11 USEFUL IN THIS PROCESS.

12 CHAIRMAN PENNINGTON: THANK YOU. ANY
13 QUESTIONS OF MR. WINTERS? THANK YOU, MR. WINTERS.

14 BOARD MEMBER CHESBRO: I HAVE A COMMENT,
15 MR. CHAIRMAN. I'M OPEN ABOUT THIS IDEA OF WHETHER
16 WE SPECIFY WITH AN INTERAGENCY AGREEMENT OR WE
17 COMPETE, BUT ONE THING THAT DOES OCCUR TO ME --
18 AGAIN, I HOPE I'M NOT BEATING A DEAD HORSE -- BUT
19 USING THE COMPOST DEMONSTRATION PROJECTS AGAIN AS
20 A PARALLEL OR A METAPHOR. JUST AS A FARMER
21 TALKING TO A FARMER HAS MORE CREDIBILITY THAN A
22 GOVERNMENT PERSON TALKING TO A FARMER, IT DOES
23 SEEM TO ME THAT ONE OF THE BENEFITS OF L.A.
24 COUNTY'S CONCEPT IS, AND ALSO THE IDEA THAT I'M
25 PUTTING FORTH, IS THAT PUBLIC ROAD BUILDERS

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1 TALKING TO PUBLIC ROAD BUILDERS AS OPPOSED TO
2 NECESSARILY TALKING TO THE PEOPLE WHO SELL THEM
3 THINGS -- AND I'M NOT PUTTING DOWN THE PEOPLE WHO
4 SELL THEM THINGS. DON'T GET ME WRONG -- BUT JUST
5 LIKE I'M NOT PUTTING DOWN GOVERNMENT PEOPLE WHEN I
6 SAY FARMERS WOULD RATHER THAN LISTEN TO FARMERS, I
7 THINK THAT'S SOMETHING TO CONSIDER, THAT PART OF
8 THE CREDIBILITY OF THIS THING IS THAT I KNOW ROAD
9 SUPERINTENDENTS SHARE THE SAME PROBLEMS AND
10 PERSPECTIVES AND PROBABLY HAVE A ROLE IN
11 COMMUNICATING THIS STUFF TO EACH OTHER. SO THAT'S
12 SOMETHING FOR US TO CONSIDER AS WE EXPLORE THE
13 QUESTION OF WHAT'S THE BEST METHOD TO GET THIS
14 PROJECT GOING, WHETHER IT'S THROUGH A COMPETITIVE
15 PROCESS OR AN INTERAGENCY AGREEMENT.

16 CHAIRMAN PENNINGTON: IN OTHER WORDS,
17 WHAT YOU ARE SAYING IS LOCAL GOVERNMENT IS LOCAL
18 GOVERNMENT.

19 BOARD MEMBER CHESBRO: RIGHT.

20 CHAIRMAN PENNINGTON: OKAY. NEXT WE HAVE
21 MICHAEL HARRINGTON. YOU CHANGED JOBS? WHAT'S
22 GOING ON?

23 MR. HARRINGTON: BIG COMPANY. I WISH I
24 HAD SOMETHING TO SAY ABOUT RUBBERIZED ASPHALT.
25 THEY'VE JUST BEEN ROLLING RIGHT ALONG HERE.

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1 FORTUNATELY OR UNFORTUNATELY I WOULD LIKE TO GO
2 BACK AND ADDRESS THE PLAYGROUND MATS, SOME OF THE
3 QUESTIONS THAT MR. FRAZEE BROUGHT UP, ALONG WITH A
4 COMMENT ON POSSIBLY WHAT MRS. GOTCH WAS TALKING
5 ABOUT.

6 I GUESS ONE WAY TO QUICKLY LOOK AT
7 IT IS WE'RE NOT TALKING ABOUT MUTUALLY EXCLUSIVE
8 ENDS HERE. SOMETHING THAT IS A BENEFIT TO
9 CHILDREN THROUGHOUT THE STATE AND SOMETHING THAT
10 IS NEEDED IN THE STATE, PLAYGROUND SURFACING, IS
11 ALSO SOMETHING THAT, THROUGH THE BOARD'S KIND OF
12 DIRECTIVE FROM THE TIRE GRANT FUND, COULD ALSO
13 LOOK AT HELPING WITH, NOT SPECIFICALLY BECAUSE
14 THEY'RE DOING SOMETHING FOR CHILDREN, BUT FOR
15 MARKET DEVELOPMENT FOR A NEW PRODUCT THAT IS
USING
16 CRUMB RUBBER FROM WHOLE TIRE RECYCLING.

17 I AM NOT AWARE OF THE 290 SOME
18 THOUSAND YOU HAVE EXPENDED IN OTHER
APPLICATIONS
19 OR OTHER VARIOUS THINGS. I KNOW THAT WE GOT
A
20 GRANT FROM THE BOARD TO DEVELOP -- TO
SPECIFICALLY
21 DEVELOP A PLAYGROUND MAT THAT WOULD BE MADE

100

22 PERCENT FROM CRUMB RUBBER FROM WHOLE TIRE

23 RECYCLING, WHICH WE HAVE DONE AND WHICH WE
HAVE

24 SPENT WELL IN EXCESS, MUCH TO THE CHAGRIN OF

THE

25 PRINCIPALS OF THE COMPANY WHEN THEY
ORIGINALLY GOT

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1 INTO IT. AS A MATTER OF FACT, A MAGNITUDE OF
2 ABOUT THREE TIMES THAT TO GET TO THE POSITION
3 WHERE WE ARE TODAY.

4 MR. PENNINGTON, I THINK, QUITE
5 RIGHTFULLY, INDICATED HE DID NOT WANT THE GRANT
6 PROGRAM TO BECOME SOMETHING TO CREATE A MARKET,
7 BUT HE CERTAINLY LOOKED AT THE GRANT PROGRAM AS
8 BEING SOMETHING TO HELP STIMULATE A MARKET. AND I
9 THINK WE WOULD AGREE WITH THAT, THAT WE ARE NOT
10 HERE WITH HAT IN HAND SAYING, "GEE. WOULD YOU
11 CREATE A MARKET FROM US?" WE ARE HERE SAYING
12 THAT, AS A NEW COMPANY, AS THE ONLY COMPANY THAT
13 I'M AWARE OF IN THE UNITED STATES, AND WE'VE
14 STARTED ATTENDING NATIONAL SHOWS, THAT MAKE A MAT
15 100 PERCENT FROM CRUMB RUBBER FROM WHOLE TIRE
16 RECYCLING. THERE ARE MATS MADE FROM SCRAP RUBBER.
17 THERE ARE MATS MADE FROM PORTIONS OF TIRES. WE'RE
18 THE ONLY ONES THAT, I THINK, THAT ARE MAKING
19 ANYTHING EVEN CLOSE TO 100 PERCENT RECYCLED
20 MATERIAL MAT FROM TIRES.

21 AND, AGAIN, THIS IS THE TIRE
22 RECYCLING FUND MONEY THAT WE ARE ALLOCATING WHILE
23 THE BOARD HAS ITS WIDE RANGE OF OBJECTIVES THAT
24 THEY HAVE TO MEET, INCLUDING RUBBER -- DIVERSION
25 FROM LANDFILL OF ALL RUBBER PRODUCTS. WE'RE

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1 TALKING SPECIFICALLY HERE ABOUT TIRE RUBBER.

2 MRS. GOTCH -- AND IT REALLY KIND OF
3 BROUGHT IT HOME WHEN SHE WAS TALKING ABOUT RURAL
4 COUNTIES. PLAYGROUNDS ARE NOT ONLY FOR CHILDREN
5 THAT ARE, OH, ABLE TO USE ALL THE EQUIPMENT TO ITS
6 MAXIMUM -- THE MAXIMUM DESIGN. WE'VE GOT RURAL
7 COUNTY REQUESTS FROM A NORTHERN RURAL COUNTY FOR A
8 SPECIAL NEEDS PLAYGROUND, SOMETHING WHERE SAND OR
9 MULCH OR ANY OF THE OTHER VARIETY OF THINGS THAT
10 MAY SOFTEN, DID NOT PROVIDE ACCESS TO MOBILITY
11 IMPAIRED STUDENTS. WE'RE WORKING ON A WAY --
12 WE'VE GIVEN SEVERAL PLAYGROUND INSTALLATIONS AWAY.
13 WE'RE LOOKING AT SOME WAY TO REALLY HELP THEM OUT
14 BECAUSE IT'S THE KIND OF THING THAT YOU JUST WANT
15 TO DO.

16 AND HOPEFULLY, I THINK THAT'S WHAT
17 THE BOARD WAS REACHING FOR IN THIS PARTICULAR
18 GRANT REQUEST, SOMETHING THAT WOULD STIMULATE
19 MARKETS. AND WE'RE TALKING ABOUT NOT ONLY HERE IN
20 CALIFORNIA. I KNOW THERE WAS BIG CONCENTRATION ON
21 HOW MANY PLAYGROUNDS IN CALIFORNIA AND HOW MANY
22 SCHOOLS AND HOW MANY THIS, BUT WE'RE LOOKING NOT
23 ONLY AT CALIFORNIA, WE'RE LOOKING NATIONALLY. SO
24 WE HOPE TO BE EXPORTING TIRE RUBBER TO OTHER
25 STATES IN THE FORM OF PLAYGROUND MATS, BUT WE

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1 REALLY DO NEED SOME ASSISTANCE AND ESPECIALLY IN
2 THE BEGINNING YEARS TO COMPETE WITH THE LONG
3 ESTABLISHED PEOPLE THAT ARE PROVIDING MATS MADE
4 FROM OTHER MATERIALS.

5 AND WITH THAT, I'LL KIND OF BE QUIET
6 AND LET YOU ASK ANY QUESTIONS THAT YOU MAY OR MAY
7 NOT HAVE.

8 CHAIRMAN PENNINGTON: QUESTIONS OF MR.
9 HARRINGTON? I HAVE ONE QUESTION. THE
10 ENVIRONMENTAL MOLDING CONCEPT, WHAT YOU SAID IS
11 YOU'RE THE ONLY COMPANY THAT MAKES HUNDRED PERCENT
12 CRUMB RUBBER FROM WHOLE TIRE RECYCLING?

13 MR. HARRINGTON: IT'S THE ONLY COMPANY
14 THAT AS ITS PRODUCT -- AS ITS RAW MATERIAL SOURCE
15 USES 100 PERCENT CRUMB RUBBER FROM WHOLE TIRE
16 RECYCLING. THERE ARE VERY FEW WHOLE TIRE
17 RECYCLERS IN THE COUNTRY. NOW, THERE ARE A LOT OF
18 PEOPLE THAT MAKE MATS OUT OF TIRE PRODUCTS OR TIRE
19 PIECES OR TIRE BUFFINGS. WE'RE THE ONLY ONES THAT
20 I'M AWARE OF THAT USE WHOLE TIRE RECYCLED
21 MATERIAL.

22 CHAIRMAN PENNINGTON: SO IF WE ADOPTED
23 MRS. GOTCH'S \$300,000 AND YOUR SUGGESTION, YOUR
24 COMPANY WOULD BE THE ONLY COMPANY THAT WOULD
25 BENEFIT FROM IT?

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1 MR. HARRINGTON: NO, NOT AT ALL.
2 ENVIRONMENTAL MOLDING CONCEPTS MANUFACTURES USING
3 THIS. I AM HOPEFUL, AS YOU SHOULD BE HOPEFUL,
4 THAT YOU ARE GOING TO HAVE, THEN, OTHER COMPANIES
5 THAT CURRENTLY USE OTHER MATERIALS, REALLY LOOK TO
6 WHOLE TIRE RECYCLED RUBBER AS A MANUFACTURING
7 PRODUCT TO GET AWAY FROM SOME OF THE OTHER SCRAP
8 MATERIALS AND GET INTO RECYCLED CRUMB RUBBER. I
9 THINK THAT ABSOLUTELY WILL HAPPEN.

10 CHAIRMAN PENNINGTON: BUT AS THINGS STAND
11 RIGHT NOW, YOU ARE THE ONLY COMPANY -- YOU JUST
12 SAID THAT YOU'RE THE ONLY COMPANY THAT DOES A
13 HUNDRED PERCENT --

14 MR. HARRINGTON: THAT DOES A HUNDRED
15 PERCENT, BUT IF YOU --

16 CHAIRMAN PENNINGTON: -- WHOLE TIRES.
17 WHAT YOU'RE SUGGESTING IS WHAT THE CRITERIA FOR
18 THESE MATS SHOULD BE.

19 MR. HARRINGTON: NO, I DIDN'T
20 SPECIFICALLY EXCLUDE BUFFINGS. I THINK WE
21 ABSOLUTELY DO NOT EXCLUDE BUFFINGS.

22 CHAIRMAN PENNINGTON: THEN I MISREAD YOUR
23 LETTER.

24 MR. HARRINGTON: WELL, THEN, I APOLOGIZE
25 IF THAT WAS -- IF THAT WAS AN INFERENCE MADE.

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1 WHILE WE DON'T WANT TO PRECLUDE ANYBODY FROM USING
2 TIRE RUBBER FROM BUFFINGS, WE THINK THAT WE HAVE
3 TAKEN THAT NEXT STEP IN USING CRUMB RUBBER FROM
4 100 PERCENT RECYCLING, BUT WE DO NOT WANT TO
5 PRECLUDE SOMEBODY FROM USING RUBBER FROM TIRE
6 BUFFINGS. AT ONE POINT WE DID THINK ABOUT THAT,
7 AND I HOPE I STRUCK IT FROM THE LETTER I WROTE.

I

8 APOLOGIZE AND PLEASE STRIKE IT. THAT SHOULD NOT
9 BE THERE.

10 CHAIRMAN PENNINGTON: OKAY. THANK YOU.

11 BOARD MEMBER GOTCH: MY COMMENT WAS THAT
12 I WASN'T TRYING TO -- IN FACT, MY FOCUS IS ON THE
13 RECYCLED FROM CRUMB RUBBER GENERATED IN THE STATE
14 OF CALIFORNIA, AND I WASN'T SUGGESTING THAT WE --

15 CHAIRMAN PENNINGTON: I DON'T THINK YOU
16 WERE SUGGESTING THAT. I'M JUST SAYING IF WE
17 FOLLOWED HIS SUGGESTION, HIS COMPANY --

18 MR. HARRINGTON: I'M SORRY. THAT SHOULD
19 NOT HAVE -- THAT WAS NOT THE INTENT. WE WANT TO
20 PROMOTE OBVIOUSLY THE USE OF CRUMB RUBBER FROM
21 WHOLE TIRE RECYCLING, BUT WE DON'T WANT TO
22 EXCLUDE

23 THOSE THAT ARE CURRENTLY MARKETING MATS THAT ARE
24 MADE FROM TIRE BUFFINGS.

24 CHAIRMAN PENNINGTON: FINE. THANK YOU,
25 MR. HARRINGTON.

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1 NEXT WE HAVE ED TOMELO.

2 MR. TOMELO: HI. GOOD AFTERNOON. I'M ED
3 TOMELO FROM UNITED AMERICAN ENERGY AND OUR
4 SUBSIDIARY COMPANY, UA ENERGY, IS THE OPERATOR OF
5 THE MODESTO ENERGY LIMITED PARTNERSHIP. I'M
6 PLEASED TO BE ABLE TO SPEAK WITH YOU TODAY AS YOU
7 ARE TRYING TO DIVVY UP THE DOLLARS. CERTAINLY TO
8 USE A BAD METAPHOR, TODAY IS THE DAY THAT THE
9 RUBBER MEETS THE ROAD.

10 BASICALLY I WANT TO POINT OUT,
11 PERHAPS AGAIN, THAT MODESTO ENERGY LIMITED
12 PARTNERSHIP IS ONE OF YOUR FINEST SUCCESS STORIES
13 WHEN YOU'RE TALKING ABOUT DEALING WITH TIRES. WE
14 CONSUME SIX MILLION TIRES A YEAR, WHICH REPRESENTS
15 ONE-THIRD OF ALL THE TIRES YOU CURRENTLY RECYCLE.

16 WE CONSUME THE SAME AMOUNT THAT THE
17 CEMENT INDUSTRY IN ITS ENTIRETY CONSUMES. WE HAVE
18 HAD A NUMBER OF PARTIES TALKING ABOUT THEIR
19 EXPECTATIONS TODAY OR THEIR HOPES TODAY.

20 A MAJOR RUBBERIZED ASPHALT PROJECT
21 THAT WAS JUST MENTIONED HALF AN HOUR AGO, LESS
22 THAN HALF AN HOUR AGO, CONSUMED 180 SOME THOUSAND
23 TIRES. THAT'S A LITTLE BIT OVER A WEEK OF OUR
24 OPERATION. PLAYGROUND MATS WILL REPRESENT HOURS
25 OF OPERATION FOR US FOR WHAT THEY WOULD PUT ON
THE

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1 PLAYGROUNDS IN A YEAR. AND WHEN YOU LOOK AT THE
2 WASTE BOARD'S MANDATE OF TRYING TO TAKE CARE OF
3 WASTE STREAMS, I THINK WE'RE DOING THAT VERY WELL.

4 IT'S ALSO IMPORTANT TO POINT OUT
5 THAT IT IS IN AN ENVIRONMENTALLY BENIGN MANNER AND
6 CONSISTENT WITH YOUR RECYCLING OBJECTIVES. WE
7 PRODUCE 14 MEGAWATTS OF ELECTRICITY, WHICH WILL
8 POWER 15,000 HOMES. WE PRODUCE IRON OXIDE, WHICH
9 IS RECYCLED IN THE CEMENT INDUSTRY RIGHT NOW. WE
10 PRODUCE A ZINC RICH FLY ASH, WHICH IS RECYCLED TO
11 THE CHEMICAL INDUSTRY, AND WE PRODUCE GYPSUM,
12 WHICH IS RECYCLED TO THE AGRICULTURE INDUSTRY.
13 AND RIGHT NOW THE ONLY THING WE THROW AWAY IS
14 MAYBE THE STUFF THAT COMES OUT OF THE OFFICE
15 BECAUSE IT'S TOO FAR AWAY TO RECYCLE THE PAPER. I
16 DON'T KNOW.

17 IT JUST SO HAPPENS THAT THIS
18 FACILITY IS SITED AT THE STATE'S LARGEST TIRE
19 PILE. AND THAT'S KIND OF A PROBLEM BECAUSE I HAVE
20 MENTIONED BEFORE THAT MY BUSINESS' OBJECTIVE IS TO
21 SAVE THIS PROJECT FROM THE ELECTRIC PRICING CLIFF
22 DATE THAT WAS MENTIONED EARLIER BY MR. BYRNE. I
23 WISH I COULD TELL YOU THAT I'M SURE WE'RE GOING TO
24 MAKE THAT. I CAN'T RIGHT NOW. BUT AS OF
25 SEPTEMBER OF NEXT YEAR, WE WILL HAVE A VERY

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1 IMPORTANT DATE IN FRONT OF ALL OF US.

2 IN THE MEANTIME I UNDERSTAND THE
3 OBJECTIVE OF THE BOARD IS TO TAKE CARE OF LEGACY
4 PILES. MY LONGER-TERM OBJECTIVE IS TO TAKE CARE
5 OF THIS FACILITY. WE WILL AGAIN INITIATE
6 LEGISLATION AND HOPEFULLY INCREASE TIP FEES THE
7 WAY THAT MR. CHESBRO HAS RECOMMENDED OR AT LEAST
8 ALLUDED TO EARLIER TODAY, AND HOPEFULLY WE'LL GET
9 MORE SUPPORT THAN WE DID LAST YEAR AND GET DOLLARS
10 TO END USERS BECAUSE I THINK WHEN WE'RE TALKING
11 ABOUT PROVIDING MARKET IMPETUS, IT'S DOLLARS THAT
12 PROVIDE THAT.

13 AND BASICALLY YOUR NEAR-TERM PROBLEM
14 WITH REGARD TO THE PILE, I WANT TO POINT OUT A FEW
15 RECENT CHANGES THAT I THINK ARE IMPORTANT FOR THE
16 BOARD'S CONSIDERATION. I BELIEVE THE BOARD HAS A
17 COPY OF A LETTER THAT WAS RECENTLY SENT BY US TO
18 OTR. MELP WILL NOT BE ACCEPTING TIRES FROM OTR AS
19 OF DECEMBER 1ST. SO WITH REGARD TO CONSUMPTION OF
20 TIRE PILE OR, FOR THAT MATTER, CONSUMPTION OF
21 TIRES FROM OFF THE ROAD, IT WILL NOT BE VIA OTR'S
22 TIRES. SO I QUESTION MR. BRYNE'S PROPOSAL, NOT
23 THAT HE DOESN'T HAVE GOOD INTENTIONS OF TRYING TO
24 REDUCE THAT TIRE PILE; BUT WHEN HE SPEAKS FOR
25 MELP, I DON'T THINK HE CAN DO THAT ANY LONGER.

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1 IT IS, HOWEVER, IMPORTANT TO POINT
2 OUT THAT UNDER THE CONTRACT BETWEEN MELP AND OTR,
3 THE BOARD DOES HAVE THE RIGHT TO BECOME A TIRE
4 PROVIDER TO US IN THE EVENT OF AN OTR DEFAULT.
5 AND THAT RIGHT CAME ABOUT DURING THE PERMITTING
6 PROCESS AND WAS PUT IN AFTER QUITE A BIT OF
7 NEGOTIATION BETWEEN US AND OTR. AND I WOULD
8 CERTAINLY SUGGEST THAT YOU LOOK SERIOUSLY AT THAT
9 RIGHT AND CONTEMPLATE WORKING WITH US.

10 MELP DID PROVIDE A DRAFT PROPOSAL A
11 NUMBER OF MONTHS AGO TO MR. CHANDLER, RECOMMENDING
12 THAT WE COULD BE A TOOL IN YOUR GETTING RID OF THE
13 LARGEST LEGACY TIRE PILE IN THE STATE OF
14 CALIFORNIA. THE PROPOSAL REPRESENTS THE LOWEST
15 COST TIRE PILE REDUCTION ON THE DOLLARS PER TIRE
16 BASIS OF ANY REMEDIATION THAT YOU HAVE EVER DONE,
17 PROBABLY IN ORDER OF MAGNITUDE OF A NUMBER OF YOUR
18 REMEDIATIONS; IN OTHER WORDS, ONE-TENTH OF THE
19 PRICE ON A DOLLARS PER TIRE BASIS.

20 WE WILL BE SEEKING THIRD-PARTY TIRES
21 FROM OTHER PERSONS IN THIS ROOM AND PERSONS NOT IN
22 THIS ROOM IN ORDER TO CONTINUE TO FEED OUR FUEL
23 REQUIREMENTS OF 500,000 TIRES PER MONTH. AND WE
24 HOPE THAT THE BOARD MAY BECOME A PROVIDER OF SOME
25 OR ALL OF THOSE TIRES IN THE FUTURE.

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1 BUT YOU'VE TALKED ABOUT THE \$500,000
2 AT THE BOTTOM OF THE LIST, AND I'M A BUSINESSMAN
3 THAT KNOWS THAT IF DOLLARS AREN'T SPECIFICALLY
4 OUTLINED FOR A BUDGET LINE ITEM, BUT RATHER IN A
5 NEBULOUS CONTINGENCY FEE THAT THERE WILL BE LOTS
6 OF TIME BEFORE THOSE DOLLARS MAY COME LOOSE, A
7 PORTION OF THEM MAY HAVE TO BE SAVED FOR FIRES, A
8 PORTION OF THEM MAY TAKE ANOTHER 10,000 TIRES INTO
9 PLAYGROUND MATS, AND I'M CONCERNED ABOUT THAT.

10 CONCERNED BOTH AS THE BUSINESSMAN RUNNING MELP,
11 BUT MORE SO AS A CITIZEN OF CALIFORNIA BECAUSE
12 THAT 500,000 TIRES WILL REPRESENT TWO AND A
13 QUARTER MILLION TIRES THAT OUR FACILITY CAN
14 CONSUME IN ACCORDANCE WITH THE PROPOSAL THAT WE'VE
15 PUT IN FRONT OF THE BOARD.

16 AND EARLIER THERE WAS A MENTION OF
17 CLEANING UP OF PILES IS REALLY USELESS WORK
18 BECAUSE IT'S JUST DIVERTING TIRES FROM THE
19 MARKETPLACE. THAT'S TRUE TO AN EXTENT, BUT WE
20 ALSO RECOGNIZE THAT IF YOU'RE CLEANING UP A PILE
21 AND NOT TAKING IN A PILE -- SORRY -- CLEANING UP

A

22 PILE AND NOT TAKING A TIRE OFF THE ROAD, THE
TIRE

23 THAT WOULD OTHERWISE HAVE COME IN FROM THE ROAD

IS

24 GOING TO GO TO A LEGAL LANDFILL AS OPPOSED TO A
25 LEGACY TIRE PILE. SO WHEN ESTABLISHING YOUR

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1 PRIORITIES TODAY, I THINK THERE'S NOTHING WRONG
2 WITH LOOKING AT LEGACY TIRE PILES FIRST AND THEN
3 THINKING ABOUT STIMULATING MARKET, AND YOU CAN DO
4 SO WITH ME OVER THE COURSE OF 1997 WHEN WE'RE
5 TRYING AGAIN AT A LEGISLATIVE INITIATIVE.

6 BASICALLY AS A BUSINESS MELP NEEDS
7 TIRES AND DOLLARS FOR TIRES TO SURVIVE. AS A
8 CITIZEN, I SIDE WITH MR. PENNINGTON'S OBSERVATIONS
9 VERY EARLY ON, THAT THERE'S TREMENDOUS RISK IN A
10 TIRE PILE. AND THE FRESNO TIRE FIRE CERTAINLY WAS
11 A VIVID REMINDER FOR ALL OF US THAT NOT ONLY ARE
12 TIRES A PROBLEM STATICALLY WHEN THEY HAVE
13 MOSQUITOES AND RATS AND STUFF, BUT THEY'RE
14 CERTAINLY A PROBLEM IF THERE SHOULD BE A FIRE,
15 WHEN NOT ONLY DO YOU HAVE THE AIR POLLUTION, BUT
16 YOU HAVE TREMENDOUS WATER AND GROUND POLLUTION.
17 OUT OF THAT MILLION TIRES, I'D REALLY BE
18 INTERESTED TO FIND OUT HOW MANY MILLIONS OF
19 DOLLARS ARE GOING TO BE SPENT ON THE CLEANUP OF
20 THAT FACILITY.

21 SO I WOULD JUST VERY STRONGLY
22 ADVOCATE THAT THE BOARD CONSIDER HELPING MELP
LONG
23 TERM AND ALSO TAKING CARE OF YOUR LEGACY TIRE
PILE

24 PROBLEM SHORT TERM. THANK YOU AND I'LL FIELD
25 QUESTIONS.

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1 CHAIRMAN PENNINGTON: QUESTIONS? OKAY.

2 THANK YOU. NEXT DR. BARRY TAKALLOU.

3 DR. TAKALLOU: MR. CHAIRMAN, MEMBERS OF
4 THE BOARD, I JUST HAVE TO -- FOR THE RECORD, I
5 NEED TO MAKE A FEW CORRECTIONS IN SOME OF THE
6 TESTIMONY PREVIOUSLY WAS MADE. MS. DONNA CARLSON
7 FROM RPA, SHE MENTIONED SHE FIND OUT ABOUT THE
8 REQUEST FOR THE PROPOSAL BY L.A. COUNTY BY
9 NOVEMBER 13TH. HOWEVER, IF ALL THE BOARD MEMBERS
10 REMEMBER, THIS STARTED IN A WORKSHOP WAY BACK IN
11 SEPTEMBER 5TH, AND EVER SINCE WE BEEN TO TWO BOARD
12 MEETINGS, AT TWO OR THREE COMMITTEE MEETINGS. AND
13 MR. BOB WINTERS, MEMBER OF THE RPA, MR. MIKE
14 HARRINGTON, MEMBERS OF THE RPA HAVE BEEN SITTING
15 ALL THESE INDIVIDUAL MEETINGS, AND NOW WE ARE
16 TALKING ABOUT THEY DIDN'T KNOW ABOUT IT. OF
17 COURSE, PEOPLE FROM ARIZONA DON'T NEED TO KNOW
18 ABOUT IT.

19 WE -- I THINK THE WASTE OF OUR
20 TAXPAYERS' MONEY TO GO TO ANOTHER ROUND AND ROUND
21 OF WORKSHOPS, WHILE THERE IS A LOCAL AGENCY IS
22 GOING TO TAKE THIS FLAG AND SPREAD OUT THIS
23 INFORMATION AMONG THEIR OWN COLLEAGUES. IF THE
24 OBJECTIVE WAS LET'S GO TO FUNDAMENTAL RESEARCH, OF
25 COURSE, THERE'S AN RFP. LET'S GET SOUTHERN

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1 CALIFORNIA TO DO GOOD ON THAT. WE GIVE YOU TEN
2 YEARS OF RESEARCH. AFTER TEN YEARS, THEY GOING TO
3 SAY THE CONCLUSION, MORE RESEARCH IS NEEDED. I
4 CAN ASSURE YOU THAT.

5 BUT THE OBJECTIVE OF THIS CENTER IS
6 THE DISSEMINATION OF INFORMATION AND ALSO SAVE
7 TAXPAYERS' MONEY, AND MORE IMPORTANT THAN THAT IS
8 THE CHARGE WHICH THIS BOARD HAS, SAVE PUBLIC
9 HEALTH. I NOTICED MR. PENNINGTON WAS WORRIED
10 ABOUT PUBLIC HEALTH AND RESERVE MONEY. I WANT TO
11 SHOW YOU SOME OF THE CALTRANS HEALTH DATA IN
12 REGARD TO RUBBERIZED ASPHALT.

13 THE SAME RPA, THEY HAVE HAD THIS
14 PUBLIC DATA, PUBLIC INFORMATION FOR YEARS. AND AS
15 I DISPLAYED FOR YOU HERE, THIS IS A CALTRANS
16 MEMORANDUM. WANT TO FOCUS IT FOR YOU. I
17 SUMMARIZED IT FOR YOU ON THIS MEMORANDUM. AND THE
18 RECENT CALTRANS INTERVIEW PEOPLE WORK WITH
19 SO-CALLED RUBBERIZED ASPHALT PROMOTED BY RPA. OUT
20 OF THE 70 PEOPLE WHO HAVE BEEN INTERVIEWED, 48
21 PEOPLE GOT SICK. AND MR. FRAZEE MENTIONED, THIS
22 IS THE CHARGE OF THIS BOARD, TO SAVE PUBLIC
23 HEALTH.

24 THIS DATA IS PUBLICLY. IT'S GOING
25 TO BE IN FRONT OF YOU. SEVENTY OUT OF -- 48 OUT

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1 OF 70 GOT SICK. THIRTY-TWO PEOPLE, THEY HAD
2 THROAT IRRITATION, 27 EYE PROBLEMS, 27 HEADACHES,
3 21 BREATHING PROBLEMS, 20 PEOPLE NAUSEA, 5 PEOPLE
4 COUGHING PROBLEMS, 3 PEOPLE VOMITING, AND 1 PEOPLE
5 SKIN PROBLEMS. SO IT'S IMPORTANT THIS CENTER,
6 WHICH IS LOCATED AND BY A PUBLIC AGENCY TO
7 DISSEMINATE GOOD AND BAD DATA AND DON'T FILTER THE
8 BAD ONES.

9 AND ALSO I'M GOING TO DISPLAY IT FOR
10 YOU ANOTHER PIECE OF REPORT FROM CALTRANS, WHICH
11 SHOWS THE SO-CALLED ASPHALT RUBBER BINDER PROJECTS
12 CALTRANS HAS BEEN USED. AND THIS IS STUDY, OUT OF
13 97 PROJECTS, 44 PERCENT OF THESE PROJECTS ARE
14 PERFORMING POORLY. AND THIS IS CALTRANS REPORT.
15 THIS IS OUR TAXPAYERS' MONEY.

16 SO I THINK AN INDEPENDENT CENTER
17 WHICH IS AWAY FROM RESEARCH. I THINK WE DONE
18 QUITE A BIT OF RESEARCH ALREADY TO GET OUT SOME OF
19 THESE FACTUAL DATA OUT, AND THE PRIMARY GOAL
20 SHOULD BE THE DEVELOPMENT OF THE END RESULT
21 SPECIFICATIONS. THEN AMONG DIFFERENT PRODUCERS
22 THERE'S NOT GOING TO BE ANY ARGUMENT. IF THE
23 FINAL PRODUCT, WE HAVE A STANDARDS FOR FINAL
24 PRODUCT TO BE TESTED AND MEET THESE STANDARDS,
25 THAT'S ALL GOING TO BE -- GOING TO GET AWAY FROM

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1 ALL THESE ARGUMENTS.

2 AND VERY LAST, PUBLIC TAXPAYERS'
3 MONEY. IN SOUTHERN CALIFORNIA, UNTIL A YEAR AGO,
4 THE AVERAGE PRICE OF ASPHALT RUBBER WAS ON AVERAGE
5 ABOUT 55 TO \$60 PER TON. IN BAY AREA IT WAS \$100
6 PER TON. AND WITH THE RECENT WORK BY SMALLER
7 CITIES, SUCH AS CITY OF LAGUNA NIGUEL AND DANA
8 POINT, THESE PRICES NOW IS MORE COMPETITIVE. WE
9 ARE SEEING PRICES AS LOW AS \$38 PER TON. SO WHAT
10 HAPPENED? ALL OF THESE YEARS, BIG UNIVERSITIES,
11 THEY WERE DOING THIS RESEARCH. NOBODY BOTHERED
12 AND SAY, "HEY, YOU KNOW, THIS TAXPAYERS' MONEY,
13 WHERE IS GOING?" BASED ON THE TWO MILLION TONS
14 CONSUMPTION BY CALIFORNIA ANNUALLY, REDUCTION OF
15 \$20 PER TON, YOU ARE TALKING ABOUT \$40 MILLION PER
16 YEAR.

17 AND THIS CENTER, ONE OF THE FUNCTION
18 OF THE CENTER IS GOING TO BE ON INTERNET ALL THE
19 PRICES ON DAILY BASIS. ANY PRICES GOING TO COME
20 OUT IS GOING TO GO ON THE INTERNET, SO EVERYBODY
21 HAVE ACCESS. SO THE GUY SITTING IN NORTHERN
22 CALIFORNIA, HE KNOWS WHAT'S THE REAL PRICES AND WE
23 ARE NO LONGER GOING TO HONOR \$100 PER TON.

24 AND AS FAR AS THE DIRECTION OF THESE
25 CENTER, AS I UNDERSTAND, THE CENTER IS GOING TO BE

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1 OPERATE UNDER EXECUTIVE BOARD COMMITTEE, WHICH
2 MEMBERS OF THIS BOARD GOING TO HAVE A MEMBERSHIP,
3 MEMBERS OF THE INDUSTRY GOING TO HAVE A MEMBERSHIP
4 IN THIS EXECUTIVE COMMITTEE.

5 BOARD MEMBER RELIS: YOU KNOW MORE THAN
6 WE DO, SO I'M INTERESTED.

7 DR. TAKALLOU: AND -- AND WHAT I'M SAYING
8 TO YOU, WE CAN WASTE TIME, GO TO ANOTHER SETS OF
9 RFP IF YOU WISH TO, AND THE RESULT IS GOING TO
10 BE -- UNIVERSITIES ARE VERY GOOD ON SENDING YOU
11 VERY THICK GOOD PROPOSALS AND GO TO ANOTHER ROUND
12 OF RESEARCH, BUT THE FUNCTION OF THIS CENTER IS
13 GOING TO BE DISSEMINATION OF GOOD AND BAD
14 INFORMATION, EVERYTHING. ANY QUESTIONS?

15 CHAIRMAN PENNINGTON: ANY QUESTIONS FOR
16 DR. TAKALLOU? OKAY. THANK YOU. AND FINALLY
17 CAROLYN BAKER.

18 MS. BAKER: NOT SO FINALLY. THANK YOU,
19 MR. CHAIRMAN AND BOARD MEMBERS. CAROLYN BAKER
20 REPRESENTING THE COGENERATION ASH COALITION.

I'M

21 HERE IN SUPPORT OF ONE OF YOUR MARKET
DEVELOPMENT

22 PROPOSALS FOR NORTHERN CALIFORNIA, THAT BEING
THE

23 \$200,000 ALLOCATION FOR COAL AND COGENERATION.
24 AS YOU KNOW, WE'RE A GROUP OF
25 COAL-FIRED POWER PLANTS WHO ARE VERY INTERESTED
IN

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1 SUPPLANTING OUR FUEL WITH TIRES, AND WE CONSER-
2 VATIVELY ESTIMATE THAT WE CAN BURN A MINIMUM OF
3 SIX TO SEVEN MILLION TIRES PER YEAR.

4 WANTED TO JUST REMIND THE BOARD,
5 HOWEVER, THOUGH, THAT THE \$200,000 HAS BEEN
6 EARMARKED FOR EMISSIONS TESTING, AND WE ARE VERY
7 SUPPORTIVE OF THAT. WE KNOW WE NEED TO DO THAT AS
8 A PRELIMINARY FIRST STEP, BUT IT'S ALSO CRITICAL
9 TO REMEMBER THAT FOR US THAT'S THE TIP OF THE
10 ICEBERG, AND THAT'S WHAT WE CONSIDER JUST THE BARE
11 BONES TO GET US STARTED ON THIS PROJECT.

12 IT'S, THEREFORE, CRITICAL TO US THAT
13 THE INTEGRITY OF THAT \$200,000 AMOUNT BE
14 MAINTAINED. WE'RE VERY APPRECIATIVE OF THE BOARD
15 WORKING WITH US ON THIS. WE'RE ENTHUSIASTIC AND
16 OPTIMISTIC ABOUT MOVING FORWARD. AS A MATTER OF
17 FACT, ONE OF MY MEMBER COMPANIES IS CHOMPING AT
18 THE BIT READY TO GET GOING AND ACTUALLY START
19 DOING THE EMISSIONS TESTING AS SOON AS THE BOARD
20 IS READY TO DO SO. SO I JUST WANTED TO THANK YOU
21 AGAIN FOR WHAT WE CONSIDER A WIN-WIN SITUATION FOR
22 THE BOARD AND FOR US. THANK YOU.

23 CHAIRMAN PENNINGTON: THANK YOU. ANY
24 QUESTIONS OF MS. BAKER? MR. WINTERS HAS ASKED TO
25 SPEAK AGAIN TO REBUT MR. HARRINGTON AND DR.

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1 TAKALLOU. I THINK WE'VE HEARD ENOUGH, AND I DON'T
2 THINK THE BOARD WANTS TO GET INTO A DEBATING
3 SOCIETY HERE. SO I THINK WE'LL MOVE ON IF THAT'S
4 OKAY. OKAY.

5 WE HAVE A MOTION ON THE FLOOR. WHY
6 DON'T I TRY TO GO THROUGH IT AGAIN.

7 BOARD MEMBER FRAZEE: I'M JUST GOING TO
8 SUGGEST AND INDICATE THAT I'M WILLING TO VOTE FOR
9 THE MOTION AS IT STANDS BEFORE US, REALIZING THAT
10 THIS WHOLE PROCESS IS ONE OF COMPROMISE AND WE
11 NEVER GO AWAY FROM ONE OF THESE GETTING EVERYTHING
12 WE WANT. BUT TWO ITEMS AND THIS CREEPING FEELING
13 THAT I'VE HAD OVER THE LAST FEW YEARS, LAST FEW
14 MONTHS OF RUBBERIZED ASPHALT AND EVERY DAY, AND IT
15 WAS JUST REINFORCED HERE AGAIN, THAT THAT'S
16 SOMETHING THAT'S BEEN GOING ON FOR A LONG TIME.
17 WE KNOW A LOT ABOUT IT. THERE'S A LOT OF PROJECTS
18 OUT THERE. IF WE ARE SPENDING MONEY FOR TESTING
19 PURPOSES, THERE'S PLENTY OF PLACES TO TEST
20 ALREADY.

21 THE PROPOSAL OR THE TECHNICAL CENTER
22 IS WORTHWHILE BECAUSE I THINK THAT CAN SPREAD THE
23 CONCEPT TO LAY DOWN MORE MILES WITH LIMITED AMOUNT
24 OF RESOURCES THAT WE HAVE. JUST FOR THE PURPOSE
25 OF DOING IT IS IN THE FEEL GOOD CATEGORY, AND I'M

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1 WILLING TO FEEL GOOD ABOUT MATS FOR SCHOOLS AND
2 I'M WILLING TO FEEL GOOD ABOUT LAYING DOWN A
3 LITTLE BIT MORE RUBBERIZED ASPHALT AT THE EXPENSE
4 OF SOME OTHER WORTHWHILE PROJECT. IN FACT, I'M
5 EVEN WILLING TO GO SO FAR AS TO SUGGEST, IN ORDER
6 TO SAVE A LOT OF PAPERWORK AND COMPETITIVE BIDDING
7 AND ALL OF THAT AND STAFF WORK THAT WE WANT TO
8 AVOID, THAT WE SPEND ALL THE RUBBERIZED ASPHALT
9 MONEY IN HUMBOLDT COUNTY AND ALL THE MATS IN NAPA
10 COUNTY WILL BE ONE PLACE WHERE EVERYBODY CAN GO
11 AND ENJOY A VACATION AND LOOK AT THEM, AND IT
12 WON'T INVOLVE A WHOLE LOT OF WORK. WE CAN JUST
13 MAKE THE GRANTS TO THOSE ENTITIES.

14 KEEPING IN MIND, THOUGH, AS SOMEONE
15 ONCE TOLD ME, NEVER FORGET IN CALIFORNIA THAT
HALF
16 OF ALL THE PEOPLE LIVE SOUTH OF SUNSET BOULEVARD.

17 CHAIRMAN PENNINGTON: OKAY. WELL, THEN,
18 LET'S GO TO -- ANYBODY HAVE ANYTHING ELSE THEY
19 WISH TO SAY?

20 BOARD MEMBER GOTCH: LET ME ASK A
21 QUESTION IF I MAY. DID YOU SAY THAT UNDER YOUR
22 MOTION, THE ADOPTION OF THE COMMITTEE
23 RECOMMENDATION TO UTILIZE AN AD HOC ADVISORY
24 COMMITTEE, DID YOU SAY TO DELETE THAT?

CHAIRMAN PENNINGTON: YES, I DID.

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1 BOARD MEMBER GOTCH: YOU DID.

2 CHAIRMAN PENNINGTON: YES.

3 BOARD MEMBER GOTCH: MAY I ASK WHY?

4 CHAIRMAN PENNINGTON: I THINK WE HAVE
5 ROOMS FULL OF ADVISORS, AD HOC COMMITTEES, AND WE
6 HAVE A COMMITTEE STRUCTURE OF OUR OWN. AND IF WE
7 NEED ANY ADVICE, I THINK WE HAVE PLENTY OF IT. I
8 THINK THESE THINGS, THEY TAKE ON A LIFE OF THEIR
9 OWN, AND I DON'T SEE THE VALUE IN IT. AND SO I'D
10 LIKE TO DO AWAY WITH THAT. IF WE WANT HELP, WE
11 CAN HAVE IT. ALL WE HAVE TO DO IS HAVE A
12 COMMITTEE HEARING OF OUR OWN OR WE CAN FOLLOW UP.
13 WE'RE NOT LACKING FOR INFORMATION OR I DON'T KNOW
14 THE PURPOSE OF IT. OKAY.

15 BOARD MEMBER GOTCH: THANK YOU.

16 CHAIRMAN PENNINGTON: OKAY. WE HAVE A
17 MOTION BEFORE US. I WILL -- YOU WANT ME TO GO
18 THROUGH IT AGAIN, DON'T YOU?

19 THE SECRETARY: IS IT THIS?

20 CHAIRMAN PENNINGTON: YES.

21 THE SECRETARY: PLUS THE OTHER CHANGES,
22 OR IS IT JUST --

23 CHAIRMAN PENNINGTON: JUST THIS.

24 BOARD MEMBER FRAZEE: WHAT ABOUT THIS?

25 CHAIRMAN PENNINGTON: THAT'S PART OF IT.

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1 I DON'T HAVE A PROBLEM WITH THIS EXCEPT THE
2 FUNDING LEVEL IS 200,000.

3 MR. CHANDLER: MR. CHAIRMAN, WE HAVE HAD
4 AN EXTENSIVE AMOUNT OF PUBLIC TESTIMONY. FOR
5 PURPOSES OF THOSE IN THE AUDIENCE, IT MIGHT BE
6 GOOD TO VERY BRIEFLY JUST RECAP YOUR PROPOSAL.

7 CHAIRMAN PENNINGTON: SURE. AND I WILL
8 MAKE ONE CONCESSION HERE TO MRS. GOTCH. HOW ABOUT
9 IF WE GO -- HOW ABOUT 40-60 ON YOUR MATS THERE?

10 BOARD MEMBER GOTCH: I'M STILL ASKING FOR
11 THE 50-50.

12 CHAIRMAN PENNINGTON: I KNOW YOU ARE.
13 I'M HELPING YOU THERE A LITTLE BIT. OKAY.

14 I'M GOING TO MOVE THE ADOPTION OF
15 THE COMMITTEE'S RECOMMENDATION ON POLICY STATEMENT
16 AND OBJECTIVES REGARDING WASTE TIRES. THIS
17 LANGUAGE APPEARS ON PAGE 17 OF THE BOARD PACKET.

18 THE ADOPTION OF THE COMMITTEE
19 RECOMMENDATION TO UTILIZE AN AD HOC ADVISORY
20 COMMITTEE BE DELETED.

21 ADOPTION OF THE FOLLOWING FUNDING:
22 PILOT LEA PROGRAM GRANT PROGRAM, 200,000; HIGHWAY
23 PATROL INTERAGENCY AGREEMENT, A HUNDRED THOUSAND;
24 DEPARTMENT OF MOTOR VEHICLES INTERAGENCY, 15,000.
25 STATE CLEANUP CONTRACT, 750,000 IS THE MINIMUM

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1 WITH UP TO A MILLION FIVE SO THAT WE CAN HAVE THE
2 FUNDS ALLOCATED. LOCAL GOVERNMENT CLEANUP
3 MATCHING GRANTS, 250. THESE GRANTS WILL BE AT
4 50-50 MATCH. FIRE MARSHAL INTERAGENCY AGREEMENT,
5 A HUNDRED THOUSAND. STATEWIDE CENTER FOR
6 RUBBERIZED ASPHALT, 500,000. THE CENTER WILL BE
7 FOR TECHNICAL -- TRANSFER OF TECHNICAL ASSISTANCE,
8 TRAINING, INFORMATION DISSEMINATION BETWEEN LOCAL
9 GOVERNMENTS. FINANCIAL SERVICES, \$50,000 IS
10 AUTHORIZED TO BE ENCUMBERED NOW AND ANOTHER 25 UP
11 TO 50,000 AUGMENTATION, IF NECESSARY. COAL
12 COGENERATION TESTING, 200,000; CEMENT KILN
13 INFORMATION DISSEMINATION, 50. LOCAL GOVERNMENT
14 SCHOOL DISTRICTS PLAYGROUND MATS, 250. THESE ARE
15 TO BE ON A 60 LOCAL FUNDS, 40 BOARD FUNDS. THE
16 GRANTS ARE AVAILABLE TO LOCAL GOVERNMENTS,
17 SUBDIVISIONS OF LOCAL GOVERNMENT, INCLUDING SCHOOL
18 DISTRICTS, FOR THE USE OF RECYCLED RUBBER IN
19 PLAYGROUND RECONSTRUCTION. A PRUDENT RESERVE OF
20 \$500,000. SPECIFIC RECOMMENDATIONS FOR
21 EXPENDITURES OF THE FUND WILL BE PRESENTED TO THE
22 POLICY COMMITTEE AND TO THE BOARD FOR APPROVAL AS
23 NECESSARY. LOCAL GOVERNMENT RUBBERIZED ASPHALT
24 MATCHING GRANTS, 200,000. I GAVE THAT PIECE OF
25 PAPER AWAY.

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1 BOARD MEMBER RELIS: NOW WITH THE 50-50.

2 CHAIRMAN PENNINGTON: YES. 250, CIWMB
3 LOCAL GOVERNMENT INTERAGENCY AGREEMENT, RATIO
4 50-50 MATCHING FUNDS.

5 THE SECRETARY: WAIT A MINUTE. WAIT A
6 MINUTE. I'M LOST.

7 CHAIRMAN PENNINGTON: THAT'S OFF THIS
8 PIECE OF PAPER. THIS IS ALL STILL PART OF THE
9 LOCAL GOVERNMENT RUBBERIZED ASPHALT MATCHING
10 GRANTS, 200. ESTABLISH A MINIMUM CIWMB PROJECTS
11 OF 50,000 TO COORDINATE EDUCATION AND ASSISTANCE
12 WITH STATE CENTER FOR SPECIAL SERVICES. RMDZ
13 LOANS FOR TIRE RECYCLING, 230,000. THIS IS A
14 TOTAL OF 3,395,000. AND THEN WE'RE GOING -- OKAY.
15 THAT'S THE MOTION. I THINK --

16 BOARD MEMBER RELIS: I SECONDED THAT.

17 BOARD MEMBER GOTCH: I REALIZE THIS IS
18 CONSECUTIVE, BUT SOMETHING WAS ADDRESSED EARLIER
19 THAT I WANTED TO CLEAR UP, AND THAT WAS, CAREN,
20 WHAT YOU HAD BROUGHT UP. AND I WANT TO MAKE IT
21 KNOWN THAT I'D BE HAPPY TO WORK WITH STAFF ON

HOW

22 TO WORK OUT THE GRANTS WHEN WE DISCUSSED THAT
23 EARLIER AS FAR AS JURISDICTION CAP OR SOMETHING.

24 CHAIRMAN PENNINGTON: OKAY.

25 THE SECRETARY: CAN I VERIFY ONE PART?

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1 LOCAL GOVERNMENT RUBBERIZED ASPHALT MATCHING
2 GRANTS, 200,000.

3 CHAIRMAN PENNINGTON: 200,000.

4 THE SECREATRY: 50-50 MATCH.

5 CHAIRMAN PENNINGTON: 50-50 MATCH.

6 THE SECRETARY: 50,000 MAX.

7 CHAIRMAN PENNINGTON: OKAY. CALL THE
8 ROLL.

9 BOARD SECRETARY: BOARD MEMBER CHESBRO.

10 BOARD MEMBER CHESBRO: NO.

11 BOARD SECRETARY: FRAZEE.

12 BOARD MEMBER FRAZEE: AYE.

13 BOARD SECRETARY: GOTCH.

14 BOARD MEMBER GOTCH: NO.

15 BOARD SECRETARY: RELIS.

16 BOARD MEMBER RELIS: AYE.

17 BOARD SECRETARY: CHAIRMAN PENNINGTON.

18 CHAIRMAN PENNINGTON: AYE. MOTION FAILS.

19 BOARD MEMBER CHESBRO: MR. CHAIRMAN, I

20 TOO, LIKE MR. FRAZEE, WANT TO -- I WANT TO
THANK

21 MR. FRAZEE AND MR. PENNINGTON AND ALL OF YOU
FOR

22 THE EFFORTS TO FIND SOME ACCOMMODATION HERE. I

23 THINK WE'RE PRETTY DARN CLOSE. I WOULD LIKE TO

24 OFFER THE SAME MOTION WITH, I THINK, WITH VERY
25 MINOR MODIFICATIONS.

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1 I WOULD LIKE TO MOVE THAT -- THE
2 SAME MOTION, BUT FOR THE PLAYGROUND MATS WITH A
3 50-50 MATCHING FUND RATIO AND WITH A PROVISION
4 THAT ALLOWS AUGMENTATION OF THE FUNDS FOR THAT
5 PROJECT IF MONEY BECOMES AVAILABLE. AND OF
6 COURSE, I'M NOT TALKING ABOUT A SPECIFIC DOLLAR
7 AMOUNT. WE'D HAVE TO EXAMINE THAT AT THE TIME
8 THAT THEY WERE ALLOCATING ADDITIONAL FUNDS THAT
9 BECAME AVAILABLE AT A LATER DATE.

10 BOARD MEMBER RELIS: WHAT'S THE AMOUNT?

11 BOARD MEMBER CHESBRO: THE AMOUNT FOR THE
12 PLAYGROUND MATS WOULD BE THE SAME AS MR.
13 PENNINGTON, WHICH IS 250, I BELIEVE.

14 CHAIRMAN PENNINGTON: CORRECT.

15 BOARD MEMBER CHESBRO: BUT THERE WOULD BE
16 A PROVISION THAT WE WOULD CONSIDER AUGMENTATION IF
17 FUNDS BECOME AVAILABLE AT A LATER DATE.

18 BOARD MEMBER RELIS: WE'D CONSIDER IT.

19 BOARD MEMBER CHESBRO: WELL, JUST LIKE
20 THE OTHERS. I'M ASSUMING WHEN WE SAY FINANCIAL
21 SERVICES 50 TO 75, THAT WE'RE NOT SAYING THAT
22 ISN'T GOING TO BE 75 RIGHT NOW. WE'RE GOING TO
23 EXAMINE THAT WHEN WE FIND OUT HOW MUCH ADDITIONAL
24 MONEY IS AVAILABLE. ANYWAY, THAT WOULD BE MY
25 MOTION. OTHERWISE IT'S IDENTICAL.

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1 BOARD MEMBER RELIS: IN THAT MOTION, JUST
2 A CLARIFICATION, THAT 30-PERCENT CAP ISSUE, WAS
3 THAT DEALT WITH? THAT SHOULD BE IN THE MOTION.
4 ON THE END USE. REMEMBER, THE END USE CONTRACTS,
5 WE'D GIVE A 30 PERCENT. I THINK WE LEFT THAT OUT
6 INADVERTENTLY.

7 CHAIRMAN PENNINGTON: RIGHT. IN
8 COMMITTEE WE DID.

9 BOARD MEMBER CHESBRO: YES.

10 MS. RICE: FOR THE CLEANUP CONTRACT.

11 BOARD MEMBER GOTCH: ALSO, WHAT I HAD
12 JUST MENTIONED WITH CAREN, AND THAT WOULD MAKE IT
13 A \$25,000 CAP PER JURISDICTION FOR THE GRANTS TO
14 HELP WORK OUT WITH YOU IS SOMETHING I'M SUGGESTING
15 TO MAKE IT A LITTLE BIT EASIER FOR STAFF TO WORK
16 OUT THE GRANTS.

17 MS. TRGOVCICH: I WOULD APPRECIATE MAYBE
18 IF WE CAN COME BACK AND WORK OUT WITH YOU ON A
19 PROPOSAL BECAUSE ONE OF THE THINGS THAT WE WOULD
20 LIKE TO DO IS BE ABLE TO EMPHASIZE OUR EXISTING
21 PROGRAMS WITH SCHOOLS IN PROMOTING RECYCLING, AND
22 IT MAY BE THAT ON A JURISDICTION OR DISTRICT BASIS
23 THAT MAY NOT SERVE TO COORDINATE WELL WITH THE
24 SCHOOLS PROGRAMS. SO I'D LIKE TO BE ABLE TO COME
25 BACK WITH A PROPOSAL TO WORK WITH YOU ON.

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1 CHAIRMAN PENNINGTON: WELL, THE PROBLEM
2 IS THAT IT'S -- GRANTS ARE AVAILABLE TO LOCAL
3 GOVERNMENTS AND SUBDIVISIONS OF LOCAL GOVERNMENTS,
4 INCLUDING SCHOOL DISTRICTS, SO I MEAN A PARK
5 DISTRICT COULD BE IN THERE. IT'S NOT. I THINK
6 THAT WAS YOUR INTENTION TOO.

7 BOARD MEMBER FRAZEE: ON THAT POINT, I
8 THINK THAT THE POINT THAT MR. CHESBRO MADE EARLIER
9 ON THE ASPHALT PAVING AND CERTAINLY PERTINENT TO
10 THIS ONE, I DON'T THINK WE WANT TO BE IN THE
11 POSITION OF PUTTING THESE RATHER SMALL AMOUNTS IN
12 THE SCHEME OF THINGS OUT FOR THE WORLD TO BID ON.
13 BECAUSE YOU CAN END UP WITH JURISDICTIONS TOTALLY
14 SPENDING MORE MONEY BIDDING FOR THIS MONEY THAN
15 THEY'RE GOING TO GET. I WENT THROUGH THAT
16 EXPERIENCE IN LOCAL GOVERNMENTS SPENDING MONEY
17 CHASING GRANTS WHEN WE COULD HAVE SPENT THE MONEY
18 ON SOMETHING WORTHWHILE. I THINK BOTH FROM STAFF
19 RESOURCES STANDPOINT, WE NEED TO FIND A WAY OF
20 NARROWING THAT. YOU KNOW, I MAY HAVE BEEN
21 FACETIOUS ABOUT SPENDING IT ALL IN NAPA COUNTY.

22 BOARD MEMBER CHESBRO: I HOPE YOU WERE.

23 BOARD MEMBER FRAZEE: BUT, YOU KNOW,
24 SOMETHING THAT NARROWS IT DOWN SO YOU DON'T HAVE
25 EVERY SCHOOL DISTRICT IN CALIFORNIA WASTING THEIR

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1 TIME DEVELOPING GRANTS.

2 BOARD MEMBER CHESBRO: WE'LL MAKE SURE
3 THERE'S SOME SCHOOLS IN NORTHERN SAN DIEGO COUNTY.

4 BOARD MEMBER GOTCH: RIGHT. I AGREE.

5 CHAIRMAN PENNINGTON: OKAY. ARE WE CLEAR
6 NOW?

7 BOARD MEMBER GOTCH: SECOND.

8 CHAIRMAN PENNINGTON: OKAY. IT'S BEEN
9 MOVED AND SECONDED. WE THINK WE KNOW WHAT WE'RE
10 DOING.

11 BOARD SECRETARY: BOARD MEMBER CHESBRO.

12 BOARD MEMBER CHESBRO: AYE.

13 BOARD SECRETARY: FRAZEE.

14 BOARD MEMBER FRAZEE: AYE.

15 BOARD SECRETARY: GOTCH.

16 BOARD MEMBER GOTCH: AYE.

17 BOARD SECRETARY: RELIS.

18 BOARD MEMBER RELIS: AYE.

19 BOARD SECRETARY: CHAIRMAN PENNINGTON.

20 CHAIRMAN PENNINGTON: AYE.

21 MS. TRGOVCICH: CHAIRMAN PENNINGTON, NEED
22 TO ADD ONE MORE THING INTO THE MIX, BUT COULD WE
23 GET CLARIFICATION AROUND THE STATEWIDE CENTER, HOW
24 YOU WOULD LIKE US TO PROCEED?

25 CHAIRMAN PENNINGTON: WE'D LIKE TO DIRECT

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1 THE STAFF TO WORK WITH THE ADVISORS ON DEVELOPING
2 THE PROPER EITHER INTERAGENCY AGREEMENT OR AN RFP.
3 I THINK THEY SHOULD LOOK AT AND SEE WHICHEVER, BUT
4 I THINK IT NEEDS TO BE BY VOICE VOTE.

5 MR. CHANDLER: SO AM I UNDERSTANDING THIS
6 TO BE THAT WE'LL LET THE ADVISORS AND STAFF DECIDE
7 WHICH SOLICITATION PROCESS, THAT THIS BOARD IS
8 DIRECTING --

9 CHAIRMAN PENNINGTON: BRING SOMETHING
10 BACK TO US.

11 MR. CHANDLER: BRING SOMETHING BACK. ALL
12 RIGHT. WE'LL BRING YOU BACK BOTH OPTIONS.

13 BOARD MEMBER RELIS: I'M COMFORTABLE WITH
14 AN INTERAGENCY MYSELF.

15 CHAIRMAN PENNINGTON: I'LL MOVE THAT THE
16 STAFF DEVELOP AN INTERAGENCY AGREEMENT BETWEEN
17 L.A. COUNTY AND THE WASTE BOARD TO DEVELOP A --
18 BETWEEN THE WASTE BOARD AND L.A. COUNTY TO DEVELOP
19 A STATEWIDE CENTER FOR RUBBERIZED ASPHALT. THAT'S
20 MY MOTION.

21 BOARD MEMBER RELIS: SECOND.

22 BOARD MEMBER CHESBRO: MR. CHAIRMAN, THE
23 OTHER QUESTION THAT GOT RAISED BESIDES THE
24 QUESTION OF HOW WE WERE GOING TO LET IT OUT WAS
25 MAKING SURE THAT WE HAD A CLEAR SCOPE. AND SO
I

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1 THINK THAT THE PROCESS THAT WAS SUGGESTED ABOUT
2 ADVISOR AND STAFF INTERACTION, THAT IT WOULD BE
3 VERY APPROPRIATE FOR US TO TAKE A LOT OF THE
4 COMMENTS THAT WERE MADE HERE TODAY AND TRY TO COME
5 UP WITH A CLEAR ENOUGH SET OF GOALS THAT WE CAN
6 REALLY HAVE A MEASURABLE RESULT AS A RESULT OF
7 THAT SCOPE. I WOULD JUST ADD THAT AS A GENERAL
8 SUGGESTION.

9 CHAIRMAN PENNINGTON: ARE WE SUFFICIENTLY
10 CLEAR?

11 MS. TRGOVCICH: SUFFICIENTLY CLEAR.

12 CHAIRMAN PENNINGTON: MR. RELIS SECONDED.
13 ANY FURTHER DISCUSSION? SECRETARY CALL THE ROLL.

14 BOARD SECRETARY: BOARD MEMBER CHESBRO.

15 BOARD MEMBER CHESBRO: AYE.

16 BOARD SECRETARY: FRAZEE.

17 BOARD MEMBER FRAZEE: NO.

18 BOARD SECRETARY: GOTCH.

19 BOARD MEMBER GOTCH: AYE.

20 BOARD SECRETARY: RELIS.

21 BOARD MEMBER RELIS: AYE.

22 BOARD SECRETARY: CHAIRMAN PENNINGTON.

23 CHAIRMAN PENNINGTON: AYE.

24 OKAY. ITEM 36, CONSIDERATION OF
25 ADOPTION OF NEGATIVE DECLARATION --

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1 MS. TRGOVCICH, WE HAVE SOME
2 ADDITIONAL STAFF REQUESTS THAT WE'D LIKE TO MAKE.
3 STAFF WILL REPORT BACK TO THE COMMITTEE AND THE
4 BOARD IN THE SPRING OF '97 WITH AN ANALYSIS OF
5 UNENCUMBERED FUNDS FROM '96-'97 AND
6 RECOMMENDATIONS FOR ALLOCATION. AND STAFF WILL
7 REPORT BACK AT THE JANUARY '97 POLICY COMMITTEE
8 MEETING ON THE STATUS OF '95-'96 CIVIL ENGINEERING
9 CONTRACT.

10 OKAY. MOVING ON TO ITEM 36,
11 CONSIDERATION OF ADOPTION OF THE NEGATIVE
12 DECLARATION AND FINANCIAL ASSURANCE AND
13 ENFORCEMENT REGULATIONS FOR SOLID WASTE LANDFILL
14 FINANCIAL ASSURANCE VIOLATIONS. MS. RICE.

15 MS. RICE: THANK YOU, MR. CHAIRMAN AND
16 MEMBERS. THIS ITEM HOPEFULLY WILL BE MUCH BRIEFER
17 THAN THE LAST ITEM. THESE WERE REGULATIONS
18 PRESENTED FOR CONSIDERATION BY THE COMMITTEE A FEW
19 WEEKS AGO. THERE WERE SOME LATE COMMENTS RECEIVED
20 THAT WERE DISCUSSED AT THAT TIME. AND DIANA
21 VAUGHN-THOMAS WILL PROVIDE MORE INFORMATION ON THE
22 REGULATIONS AND THE COMMENTS RECEIVED FOR YOUR
23 CONSIDERATION.

24 SIMILAR TO OTHER REGULATIONS THAT
25 YOU'VE HEARD TODAY, THIS ITEM WOULD REQUIRE TWO

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1 MOTIONS SHOULD YOU BE IN THE MODE OF ADOPTING IT
2 TODAY, ONE ON THE NEGATIVE DECLARATION AND ONE ON
3 THE REGULATIONS.

4 MS. VAUGHN-THOMAS: CHAIRMAN PENNINGTON,
5 MEMBERS OF THE BOARD, THE NEGATIVE DECLARATION WAS
6 OUT FOR PUBLIC REVIEW DURING THE PERIOD OF
7 SEPTEMBER 20TH THROUGH OCTOBER 23D. THE NEGATIVE
8 DECLARATION FOR THE PROPOSED REGULATIONS FOUND
9 THAT THESE REGULATIONS WILL NOT HAVE A SIGNIFICANT
10 EFFECT ON THE ENVIRONMENT.

11 THE PUBLIC REVIEW PERIOD FOR THE
12 PROPOSED REGULATIONS WAS FROM SEPTEMBER 20TH
13 THROUGH NOVEMBER 4TH. THESE REGULATIONS ARE BASED
14 ON THE FINANCIAL ASSURANCE ENFORCEMENT PROCEDURES
15 WHICH WERE DISSEMINATED TO INTERESTED PARTIES
16 EARLIER THIS YEAR.

17 WE RECEIVED COMMENTS ON THOSE
18 PROCEDURES FROM INTERESTED PARTIES AND
19 SUBSEQUENTLY INCORPORATED THEM INTO THE PROPOSED
20 REGULATIONS. AS A RESULT OF SOME OF THE COMMENTS
21 THAT WE RECEIVED ON THE PROPOSED REGULATIONS, WE
22 MADE MINOR MODIFICATIONS, WHICH DO NOT REQUIRE
23 RENOTICING OF THE REGULATIONS.

24 WE RECEIVED NINE COMMENT LETTERS.
25 MANY OF THE COMMENTS WERE OUTSIDE THE SCOPE OF

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1 THIS PROPOSED REGULATORY PACKAGE. SOME COMMENTS
2 WERE IN SUPPORT OF THE PROPOSED REGULATIONS. AND
3 SPECIFICALLY, WE RECEIVED COMMENTS FROM WASTE
4 MANAGEMENT ON AN ISSUE THAT WE ARE BRINGING
5 FORWARD TO YOU TODAY FOR CONSIDERATION.

6 THE REGULATIONS PROVIDE FOR
7 ASSESSING PENALTIES FOR VIOLATIONS OF THE
8 FINANCIAL ASSURANCE ENFORCEMENT REGULATIONS. AS A
9 PART OF THAT PROCESS, THERE ARE FACTORS THAT MAY
10 BE INCLUDED AS PART OF DETERMINING AN INITIAL
11 PENALTY. ONE OF THE FACTORS IS THE ABILITY TO PAY
12 ISSUE, WHICH MEANS WHETHER OR NOT AN OPERATOR HAS
13 THE ABILITY TO PAY A PARTICULAR PENALTY.

14 THIS FACTOR WAS THE SUBJECT OF WASTE
15 MANAGEMENT'S COMMENT. WASTE MANAGEMENT SUPPORTS
16 THE BOARD'S RELIANCE ON THE FACTORS TO MODIFY
17 PENALTY AMOUNTS WITH THE EXCEPTION OF THE ABILITY
18 TO PAY ISSUE. WASTE MANAGEMENT BELIEVES THAT
19 PENALTIES FOR FINANCIAL ASSURANCE VIOLATIONS
20 SHOULD NOT BE ELIGIBLE FOR RELIEF BASED ON THE
21 INABILITY TO PAY.

22 WASTE MANAGEMENT FURTHER COMMENTED
23 THAT IT WAS NOT FAIR TO THOSE FISCALLY SOUND
24 FACILITY OPERATORS SUBJECT TO HIGHER PENALTY
25 COMPARED TO A FISCALLY MARGINAL OPERATOR WITH THE

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1 SAME VIOLATIONS.

2 ANOTHER ISSUE THAT WASTE MANAGEMENT
3 BROUGHT UP WAS REGARDING THE REQUEST -- WAS
4 REGARDING THE FACT THAT AN OPERATOR WHO HAS -- WHO
5 HAPPENS TO BE IN THE POSITION OF NOT BEING ABLE TO
6 PAY A PARTICULAR PENALTY ALSO MAY BE IN THE
7 POSITION OF BEING CLOSE TO BANKRUPTCY. THEREFORE,
8 WASTE MANAGEMENT IS REQUESTING THAT WE REMOVE THAT
9 PARTICULAR FACTOR FROM THE REGULATIONS.

10 AT THE P&E COMMITTEE MEETING, THERE
11 WERE DISCUSSIONS AROUND PRECEDENTS SET FOR THIS
12 PARTICULAR FACTOR BEING CONSIDERED AS PART OF THE
13 PENALTY DETERMINATION. STAFF IS AWARE OF A COUPLE
14 OF SITUATIONS WHERE PRECEDENT HAS BEEN SET. THE
15 WATER BOARD OR THE WATER CODE -- EXCUSE ME --
16 SECTION 13327 SPECIFICALLY STATES THAT THE ABILITY
17 TO PAY MAY BE USED AS A DETERMINING FACTOR FOR
18 ASSESSING A PENALTY.

19 COMMON PRACTICES BY THE DEPARTMENT
20 OF TOXIC SUBSTANCE CONTROL, AS WELL AS JUDGES IN
21 CERTAIN COURT PROCEEDINGS, MAY ALSO CONSIDER THIS
22 PARTICULAR FACTOR. THE PUBLIC RESOURCES CODE ALSO
23 ALLOWS THE BOARD TO CONSIDER CIRCUMSTANCES AND
24 CONDITIONS THAT AFFECT AN OPERATOR'S ABILITY TO
25 COMPLY WITH THE REGULATIONS.

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1 SO THE ISSUE HERE BEFORE THE BOARD
2 AT THIS TIME IS WHETHER OR NOT TO MAINTAIN THAT
3 PARTICULAR FACTOR, WHETHER TO REMOVE IT AS
4 REQUESTED BY WASTE MANAGEMENT, OR POSSIBLY MODIFY
5 IT, TO POSSIBLY DEFINE IT AS A FACTOR THAT MAY BE
6 USED TO PERHAPS LENGTHEN THE TIME OF A PENALTY
7 BEING PAID RATHER THAN DECREASING A PENALTY.

8 THIS ITEM IS BEING PRESENTED TO YOU
9 WITHOUT A STAFF RECOMMENDATION. IF THE BOARD
10 CHOOSES TO REMOVE THIS PARTICULAR PROVISION, IT
11 WILL REQUIRE STAFF TO SEND THE NOTICE OUT AGAIN
12 FOR A 15-DAY NOTICE. I'LL BE GLAD TO ANSWER ANY
13 QUESTIONS YOU MAY HAVE.

14 CHAIRMAN PENNINGTON: QUESTIONS? OKAY.
15 MR. CHUCK WHITE.

16 MR. WHITE: THANK YOU, MR. CHAIRMAN.
17 CHUCK WHITE WITH WASTE MANAGEMENT WMX. I WILL BE
18 BRIEF. ONE THING I DID WANT TO BRING UP IS THAT
19 THERE WAS ACTUALLY TWO ISSUES THAT WE WROTE THE
20 LETTER ON.

21 THE FIRST ISSUE WAS THE LENGTH OF
22 TIME FOR A VIOLATOR TO RESPOND TO A NOTICE THAT
23 YOU'RE IN VIOLATION OF THESE REGULATIONS. AND AT
24 THE COMMITTEE MEETING, WE TALKED ABOUT THAT A
25 RESPONSE COULD BE JUST SIMPLY A LETTER SAYING WE

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1 GOT YOUR CONCERN OR COMPLAINT, AND WE'RE
2 PROCESSING IT.

3 AND THE CONCERN WAS IS TEN DAYS
4 REALLY APPROPRIATE TIME TO PUT TOGETHER A COMPLETE
5 EVALUATION AND RESPONSE. AND I GOT THE IMPRESSION
6 THAT THAT WAS OKAY AS LONG AS SOME RESPONSE WAS
7 RECEIVED WITHIN TEN DAYS. DOESN'T HAVE TO BE THE
8 COMPLETE RESPONSE TO THE ALLEGATIONS. AND I DON'T
9 THINK THERE'S A NEED TO CHANGE THE REGULATIONS.
10 BUT IF IT IS THE BOARD'S DESIRE TO MAYBE CLARIFY
11 THAT IN YOUR FINAL STATEMENT OF REASONS, I THINK
12 THAT WOULD BE MORE THAN APPROPRIATE, THAT YOU'RE
13 JUST BASICALLY LOOKING FOR A RESPONSE, THAT YOU'RE
14 ACKNOWLEDGING RECEIPT OF IT, THAT YOU'RE TAKING
15 ACTION TO PROVIDE A MORE FULL RESPONSE.

16 TEN DAYS IS KIND OF A SHORT TIME,
17 PARTICULARLY DEALING WITH COMPLEX FINANCIAL
18 ARRANGEMENTS. IF THAT'S THE UNDERSTANDING, THAT A
19 RESPONSE IS ALL WE'RE TALKING ABOUT, THAT'S FINE.
20 IF WE'RE TALKING ABOUT THE FINAL RESPONSE, AT
21 WHICH TIME YOU GET DOWN TO, YOU KNOW,
22 NEGOTIATIONS, I THINK THAT'S PROBABLY A VERY SHORT
23 TIME TO PUT POTENTIALLY A COMPLEX THING TOGETHER.
24 I'D BE INTERESTED IN YOUR THOUGHTS ON THAT ONE.
25 WITH RESPECT TO MS. THOMAS'

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1 DESCRIPTION, IT REALLY IS OUR CONCERN. THERE MAY
2 BE AREAS IN THE WATER CODE THAT DO THIS, BUT I'M
3 NOT AWARE OF ANY OTHER REGULATION IN STATE
4 GOVERNMENT THAT GIVES ABILITY TO PAY AS A
5 MODIFYING FACTOR IN THE AMOUNT YOU CAN PAY. AND
6 THE WAY THE REGULATIONS ARE WRITTEN, IT SAYS THE
7 FOLLOWING FACTORS MAY BE USED TO CONSIDER THE
8 AMOUNT YOU ARE GOING TO PAY, NOT NECESSARILY THE
9 LENGTH OF TIME YOU'RE GOING TO TAKE TO PAY. I
10 GUESS OUR PREFERENCE WOULD BE TO TAKE IT OUT
11 ENTIRELY FROM THE REGULATIONS. IS IT REALLY
12 APPROPRIATE?

13 REMEMBER WHAT YOU ARE TALKING ABOUT.
14 YOU'RE TALKING ABOUT FINANCIAL ASSURANCE.
15 SOMEBODY HASN'T PROVIDED FINANCIAL ASSURANCE
16 BECAUSE THEY'VE GOT AN INABILITY TO PROVIDE
17 FINANCIAL ASSURANCE, SO THEY GET PENALIZED. OH,
18 AND THEY'VE GOT AN INABILITY TO PAY THE PENALTY,
19 SO, THEREFORE, THERE'S NO FINANCIAL ASSURANCE AND
20 THERE'S NO PENALTY.

21 I MEAN IT JUST STRIKES AS KIND OF
22 ABSURD AND STRANGE THAT THAT WOULD EVEN BE A
23 FACTOR, PARTICULARLY FOR THESE KINDS OF FINANCIAL
24 ASSURANCE REGULATIONS.
25 SO OUR FIRST PREFERENCE WOULD BE FOR

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1 YOU TO STRIKE IT FROM THE REGULATIONS. GO FOR THE
2 15-DAY RENOTICE. IF YOU FEEL YOU NEED TO PUT
3 SOMETHING LIKE THIS IN AND YOU LIMIT IT SOLELY TO
4 THE TIME OF THE PAYBACK OF THE PENALTY EXTENDED
5 OVER A PERIOD OF TIME WITHOUT MODIFYING THE
6 FACTOR, I THINK THAT WOULD BE ACCEPTABLE.
7 CERTAINLY NOT OUR PREFERABLY WAY OF DEALING WITH
8 THIS ISSUE WHICH WE BELIEVE REALLY IS UNIQUE IN
9 REGULATION AND ENFORCEMENT REGULATIONS IN THE
10 STATE OF CALIFORNIA.

11 SO AGAIN, THE TWO ISSUES, ONE IS
12 JUST GIVE CLARIFICATION ON WHAT IS -- IN THE FINAL
13 STATEMENT OF REASONS WHAT IS AN ADEQUATE RESPONSE?
14 AND WE THOUGHT WE HEARD AT THE P&E MEETING THAT A
15 RESPONSE IS JUST A RESPONSE, NOTHING BEYOND THAT.
16 AND THE SECOND ISSUE IS WHERE SHOULD -- WHAT YOU
17 SHOULD DO WITH THIS ISSUE OF ABILITY TO PAY
18 PARTICULARLY FOR THESE FINANCIAL ASSURANCE
19 REGULATIONS. THANK YOU.

20 CHAIRMAN PENNINGTON: THANK YOU.

21 BOARD MEMBER CHESBRO: QUESTION FOR THE
22 STAFF. MAYBE I HEARD IN MY BRIEFING WRONG, SO I'M
23 NOT GOING TO CHARACTERIZE IT. LET ME ASK THE
24 QUESTION AGAIN. I THOUGHT I HEARD THAT THERE ARE,
25 IN FACT, OTHER EXAMPLES OF COMPARABLE REGULATIONS

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1 ELSEWHERE IN STATE GOVERNMENT THAT DO PROVIDE FOR
2 THIS KIND OF FLEXIBILITY.

3 MS. VAUGHN-THOMAS: NO, THERE ARE NO
4 REGULATIONS. THERE IS THE WATER CODE AGAIN THAT
5 SPECIFICALLY IDENTIFIES THAT AS A FACTOR, BUT
6 THERE ARE NO STATE REGULATIONS.

7 BOARD MEMBER CHESBRO: SO IT'S STATUTORY.

8 BOARD MEMBER RELIS: AS HARSH AS IT
9 SOUNDS, YOU HAVE TO, I THINK, WITH GOOD REGULATION
10 HOLD ALL PARTIES TO THE SAME STANDARD OTHERWISE.
11 AND I WOULD THINK THIS WOULD BE INCONSISTENT WITH
12 RCRA. THE WHOLE DIRECTION OF RCRA WAS TO -- I
13 MEAN IF WE WERE TO HAVE A FLEXIBLE SYSTEM BECAUSE
14 THE WHOLE PURPOSE OF RCRA WAS BOTH TO CLOSE DOWN
15 THE SMALL FACILITIES THAT COULDN'T OPERATE UNDER A
16 RCRA SUBTITLE D ENVIRONMENT. SO I'LL JUST THROW
17 THAT IN.

18 MS. RICE: JUST TO POINT OUT, NOT AS A
19 POINT OF DISAGREEMENT, BUT JUST CLARITY, THE WHOLE
20 PROPOSAL IS ONE OF SOME AMOUNT OF FLEXIBILITY.
21 ALL OF THE FACTORS LISTED UNDER THE SUB B ON PAGE
22 258, I BELIEVE, OF YOUR ITEM ARE FACTORS WHICH CAN
23 BE TAKEN INTO CONSIDERATION, MAYBE CONSIDERED IN
24 MODIFYING THE AMOUNT OF THE PENALTY, AND SO THOSE
25 ARE ALL SOMEWHAT SUBJECTIVE. THIS IS NOT A

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1 REGULATORY PACKAGE THAT WOULD LEAD TO ONE DEFINED
2 AMOUNT OF PENALTY FOR EACH VIOLATION.

3 THEY'RE FACTORS TO BE CONSIDERED, SO
4 STAFF HAD MERELY BEEN PROPOSING THE ABILITY TO PAY
5 AS ONE OF THOSE FACTORS, AND WE'RE GOING TO TAKE
6 WHATEVER DIRECTION THE BOARD MAY PROVIDE ON THAT
7 FACTOR; BUT EVEN IF THAT ONE FACTOR IS REMOVED,
8 THERE ARE OTHER FACTORS IN HERE WHICH WOULD BE
9 LOOKED AT ON A CASE-BY-CASE BASIS.

10 BOARD MEMBER RELIS: ON THAT POINT, MR.
11 CHAIR, I WOULD PROPOSE THAT WE EXTRACT THE
12 LANGUAGE ON ABILITY TO PAY, BEARING IN MIND THAT
13 ALL THESE OTHER FACTORS ARE STILL AT PLAY AND
14 WOULD BEAR ON DECISIONS BY THIS BOARD.

15 CHAIRMAN PENNINGTON: IS THAT A MOTION?

16 BOARD MEMBER RELIS: YES.

17 CHAIRMAN PENNINGTON: WE HAVE A SECOND?

18 BOARD MEMBER FRAZEE: I'LL SECOND.

19 BOARD MEMBER CHESBRO: MR. CHAIRMAN, I
20 DISAGREE WITH THE MOTION. FIRST OF ALL, I THINK
21 WE REALIZE, JUST LIKE THE \$10,000 A DAY FINES AT
22 THE END OF THE 939 PROCESS OR EVEN SOONER, THAT
23 IN

24 SOME CASES IT'S GOING TO BE TRYING TO EXTRACT
25 BLOOD FROM A TURNIP. THERE'S JUST THE REALITY OF
 WHETHER THE RESOURCES ARE THERE OR NOT.

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1 SECONDLY, I THINK, AS I UNDERSTAND
2 IT, CORRECT ME IF I'M WRONG, STAFF, BUT THE
3 STATUTORY AUTHORITY EXISTS WHETHER WE PUT IT IN
4 THE REGULATIONS OR NOT. AND SO THIS IS JUST SOME
5 CLARIFICATION, AND I THINK THE BOARD IS GOING TO
6 HAVE TO FACE THE REALITY OF A LOCAL JURISDICTION'S
7 FINANCIAL ABILITY AT THE TIME THAT WE'RE UP
8 AGAINST IT REGARDLESS OF WHAT EXACTLY THESE REGS
9 SAY. SO I THINK REGULATIONS OUGHT TO REFLECT
10 REALITY, AND REALITY IS THAT SOMEBODY IS GOING TO
11 COME IN AND PLEAD THAT CASE TO US UNDER STATUTE.

12 I THINK CHUCK RAISES, YOU KNOW, MR.
13 WHITE RAISES GOOD POINTS, AND I CERTAINLY THINK
14 THAT WE OUGHT TO TAKE THOSE THINGS INTO ACCOUNT AT
15 THE TIME THAT WE'RE CONSIDERING PENALTIES AS WELL.
16 BUT I THINK WE HAVE TO FACE THE REALITY OF NEARLY
17 BANKRUPT LOCAL GOVERNMENTS WHEN WE'RE MAKING
18 DECISIONS ABOUT PENALTIES.

19 BOARD MEMBER RELIS: MY ONLY POINT IS WE
20 WILL HAVE TO FACE THAT REGARDLESS AND THE CRITERIA
21 ARE SUCH, BUT IF YOU PUT THE NUMBER -- IF YOU
22 ACTUALLY STATE, WELL, ONE OF OUR CRITERIA IS
23 WHETHER YOU HAVE ABILITY TO PAY TO OPERATE A
24 LANDFILL PROPERLY. I THINK THAT'S A GOOD IDEA.
25 BUT -- OKAY. THAT'S ALL.

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1 MS. TOBIAS: MR. CHAIR, MAY I COMMENT,
2 PLEASE. I'M A LITTLE BIT UNCOMFORTABLE WITH THE
3 PROVISION OF HAVING INABILITY TO PAY IN THERE. I
4 FEEL THAT IF THE WATER CODE DOES ACTUALLY HAVE
5 SPECIFIC AUTHORITY, WHICH I UNDERSTAND IT DOES,
TO
6 PUT THIS IN, THAT I FEEL THAT WE SHOULD HAVE
7 SPECIFIC AUTHORITY TO PUT IT IN AS WELL. THE
FACT
8 WE THAT DON'T I THINK ACTUALLY OPERATES AGAINST
9 HAVING THIS.

10 I ALSO SHARE MR. RELIS' CONCERNS
11 THAT WE HAVE AN EQUITABLE SYSTEM. ONE OF THE
WAYS
12 THAT WOULD BE POSSIBLE TO DEAL WITH THIS WITHOUT
13 DEALING WITH IT IN THE REGS IS THAT WE ARE
14 ASSUMING UNDER THESE FINANCIAL ASSURANCE REGS
THAT
15 WE COULD STILL WORK OUT A STIPULATED AGREEMENT
16 WITH ANY ENTITY, WHICH WE HAVE JUST DONE, IN
TERMS
17 OF WORKING OUT A PAYMENT SCHEDULE. AND I THINK
18 THAT THAT'S A WAY TO DO IT, PLUS THAT GIVES A
19 CARROT FOR SOMEBODY TO ACTUALLY SIT DOWN AND WORK
20 IT OUT WITH US RATHER THAN US HAVING TO GO AFTER

21 THEM UNDER THESE REGS TRYING TO ASSERT A PENALTY.
22 BOARD MEMBER RELIS: SO WE COULD GO AT
IT
23 THROUGH A STIPULATED AGREEMENT. WE HAVE A LOT OF
24 EXPERIENCE WITH THAT.
25 MS. TOBIAS: THROUGH A STIPULATED

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1 AGREEMENT AND IN ACTUALITY THAT MIGHT BE A CARROT
2 TO SOME OF THE JURISDICTIONS TO COME IN AND WORK
3 IT OUT THAT WAY.

4 BOARD MEMBER CHESBRO: SINCE WE'VE BEEN
5 LIKE SO AGREEABLE TODAY, WHAT DO YOU THINK, PAUL?

6 BOARD MEMBER RELIS: I THINK THAT SOUNDS
7 LIKE A GOOD THING TO DO. STRIKE THE LANGUAGE AND
8 REFER TO THE STIPULATED. DO WE HAVE TO? OR IS
9 THAT ASSUMED?

10 BOARD MEMBER CHESBRO: SO THE SCHEDULE
11 QUESTION IS ASSUMED? IT DOESN'T NEED TO BE IN
12 THERE?

13 MS. RICE: THAT'S MY UNDERSTANDING OF THE
14 SUGGESTION, THAT THE LANGUAGE BE STRIKED AND IT
15 SIMPLY BE AN ISSUE WHEN WE NEGOTIATE AN AGREEMENT
16 ON A VIOLATION.

17 CHAIRMAN PENNINGTON: OKAY. IT'S BEEN
18 MOVED AND SECONDED. MOTION IS TO STRIKE THE
19 LANGUAGE. AND WE HAVE TO ADOPT.

20 MS. RICE: I ASSUME THE DIRECTION, THEN,
21 WOULD BE WE WOULD NOTICE THESE FOR 15-DAY PUBLIC
22 COMMENT PERIOD AND COME BACK TO COMMITTEE AND
23 BOARD WHEN THE COMMENT PERIOD HAS RUN ITS COURSE.

24 CHAIRMAN PENNINGTON: CORRECT. OKAY.
25 BOARD MEMBER FRAZEE: WE CAN'T DO THE

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1 NEGATIVE DEC TODAY EITHER?

2 MS. VAUGHN-THOMAS: I GUESS THAT DEPENDS
3 ON WHETHER OR NOT IT CHANGES THE --

4 MS. TOBIAS: I THINK IT'D BE BETTER TO
5 WAIT.

6 BOARD MEMBER FRAZEE: OKAY.

7 CHAIRMAN PENNINGTON: OKAY. IT'S BEEN
8 MOVED AND SECONDED. SECRETARY CALL THE ROLL.

9 BOARD SECRETARY: BOARD MEMBER CHESBRO.

10 BOARD MEMBER CHESBRO: I'M GOING TO PASS
11 FOR THE MOMENT BECAUSE I'M TRYING TO DECIDE
12 WHETHER I THINK IT OUGHT BE SPECIFIED IN THE REG
13 OR NOT.

14 BOARD SECRETARY: FRAZEE.

15 BOARD MEMBER FRAZEE: AYE.

16 BOARD SECRETARY: GOTCH.

17 BOARD MEMBER GOTCH: AYE.

18 BOARD SECRETARY: RELIS.

19 BOARD MEMBER RELIS: AYE.

20 BOARD SECRETARY: CHAIRMAN PENNINGTON.

21 CHAIRMAN PENNINGTON: AYE.

22 DO YOU WANT TO VOTE OR NOT?

23 BOARD MEMBER CHESBRO: I'LL VOTE AYE.

24 CHAIRMAN PENNINGTON: OKAY. MOTION
25 CARRIES.

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1 AND ITEM 37, CONSIDERATION OF SITE
2 REMEDiation UNDER THE WASTE TIRE STABILIZATION AND
3 ABATEMENT PROGRAM.

4 MS. RICE: THANK YOU.

5 CHAIRMAN PENNINGTON: OKAY.
6 CONSIDERATION OF SITE REMEDIATION UNDER THE WASTE
7 TIRE STABILIZATION AND ABATEMENT PROGRAM.

8 MS. RICE: THANK YOU, MR. CHAIRMAN AND
9 MEMBERS. WE HAVE TWO SITES, TIRE SITES, THAT
10 WE'RE BRINGING FOR YOUR CONSIDERATION TODAY WHERE
11 WE ARE PROPOSING TO USE FUNDS, REMAINING FUNDS
12 FROM THE '94-'95 FISCAL YEAR CLEANUP CONTRACT, AND
13 GALE REHBERG WILL PRESENT INFORMATION ON WHAT
14 WE'RE PROPOSING TO DO.

15 MS. REHBERG: WELL, IT'S NOT MORNING
16 ANYMORE. IT'S NOW AFTERNOON, BUT TO REMIND YOU
17 THE PRC SECTION 42826 AUTHORIZES THE BOARD TO
18 SPEND MONEY FROM THE CALIFORNIA TIRE RECYCLING
19 MANAGEMENT FUND TO PERFORM CLEANUP, ABATEMENT,
20 REMEDIAL WORK REQUIRED TO PREVENT POLLUTION,
21 NUISANCE, OR INJURY TO THE PUBLIC HEALTH OR
22 SAFETY

23 AT WASTE TIRE SITES WHERE THE RESPONSIBLE PARTIES
24 HAVE FAILED TO TAKE THE APPROPRIATE ACTION AS
25 RECOMMENDED BY THE BOARD.

 IN RECOMMENDING THESE TWO SITES

THAT

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1 I'M BRINGING FORWARD, STAFF INVESTIGATED AND
2 DETERMINED THAT EACH SITE REQUIRES ABATEMENT, AND
3 ABATEMENT IS NEEDED TO PROTECT THE PUBLIC HEALTH
4 AND SAFETY AND ALSO THE ENVIRONMENT.

5 WE'VE ALREADY TALKED ABOUT THE TWO
6 SITES IN OUR BRIEFINGS. SUNSET WASTE TIRE SITE
7 HAS APPROXIMATELY 250,000 WASTE TIRES WHICH HAVE
8 BEEN STOCKPILED IN A LOW DENSITY RESIDENTIAL
9 NEIGHBORHOOD. SITUATION IS A PROPERTY OWNER
10 LEASED THE LAND OUT AND A TENANT STOCKPILED THE
11 TIRES ILLEGALLY.

12 CHAIRMAN PENNINGTON: HEARD THAT ONE
13 BEFORE.

14 MS. REHBERG: I WISH THERE WAS A NEW
15 LINE.

16 PETE NAVARRO WASTE TIRE SITE IS IN
17 FRESNO COUNTY. THERE ARE APPROXIMATELY 30,000
18 WASTE TIRES ON SITE AT THIS TIME. ABOUT THREE
19 YEARS AGO 7,000 TIRES DID BURN, SO I DO HAVE SOME
20 BURN ASH ON SITE ALSO.

21 OUR REMEDIATION WILL REMOVE THE
22 30,000 WASTE TIRES, AND THE COUNTY WILL BE ASKED
23 TO DEAL WITH THE BURN ASH ON SITE AND THE STEEL
24 THAT'S REMAINING.

25 THE CURRENT PROPERTY OWNERS

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1 PURCHASED THE PROPERTY WITH THE TIRES ON IT, AND
2 THEY ARE NOT THE RESPONSIBLE PARTIES, BUT YET THEY
3 KNEW THAT THE TIRES WOULD BE NEED TO BE
4 REMEDIATED.

5 CHAIRMAN PENNINGTON: ANY QUESTIONS OF
6 STAFF?

7 MS. REHBERG: THE REASON WHY THIS DIDN'T
8 GET ON THE CONSENT CALENDAR IS BECAUSE OUR CEQA
9 PROCESS HAD NOT BEEN COMPLETED AT THE TIME THE
10 COMMITTEE MET. I JUST WANT TO POINT OUT THAT
11 THESE TWO PROJECTS WILL BE VERY SHORT-TERM
12 DURATION, WILL HAVE BASICALLY NO IMPACT ON
13 TRAFFIC, AND PRECLUDE ANY RESPONSIBLE POSSIBILITY
14 OF ENVIRONMENTAL IMPACTS THROUGH THE REQUIRED
15 REMEDIATION.

16 STAFF IS RECOMMENDING EXEMPTION OF
17 THIS PROJECT FROM THE CEQA COMPLIANCE UNDER THE
18 CATEGORICAL EXEMPTION DESCRIBED IN CEQA
GUIDELINES

19 CCR 15308.

20 BOARD MEMBER RELIS: MR. CHAIR, I MOVE
21 CONCURRENCE WITH THE REMEDIATION OF THE TWO
SITES.

22 BOARD MEMBER GOTCH: SECOND.

23 CHAIRMAN PENNINGTON: ANY FURTHER

24 QUESTIONS? IT'S BEEN MOVED AND SECONDED. WILL
25 THE SECRETARY CALL THE ROLL.

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1 BOARD SECRETARY: BOARD MEMBER CHESBRO.

2 BOARD MEMBER CHESBRO: AYE.

3 BOARD SECRETARY: FRAZEE.

4 BOARD MEMBER FRAZEE: AYE.

5 BOARD SECRETARY: GOTCH.

6 BOARD MEMBER GOTCH: AYE.

7 BOARD SECRETARY: RELIS.

8 BOARD MEMBER RELIS: AYE.

9 BOARD SECRETARY: CHAIRMAN PENNINGTON.

10 CHAIRMAN PENNINGTON: AYE. MOTION

11 CARRIES.

12 ANY OPEN DISCUSSION? ANYBODY OUT

13 HERE THAT WANTS TO DISCUSS ANYTHING? THANK YOU

14 VERY MUCH. OKAY. COMMITTEE -- THE BOARD WILL

15 RECESS INTO AN EXECUTIVE SESSION TO DISCUSS SOME

LEGAL MATTERS AND PENDING SUITS. WE WILL ADJOURN

AFTER THAT.

(END OF PROCEEDINGS AT 4 P.M. TO GO
INTO CLOSED SESSION. AT THE CONCLUSION OF THE
CLOSED SESSION, THE BOARD MEETING WAS ADJOURNED.)

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